

EIGHTIETH DAY

(Wednesday, June 6, 1951)

The Senate met at 10:30 o'clock a. m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present.

Aikin	Lock
Ashley	Martin
Bell	McDonald
Bracewell	Moffett
Bullock	Moore
Carney	Nokes
Carter	Parkhouse
Colson	Phillips
Corbin	Russell
Fuller	Shofner
Hardeman	Strauss
Hazlewood	Tynan
Hudson	Vick
Kelley of Hidalgo	Wagonseller
Kelly of Tarrant	Weinert
Lane	

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal approved.

Reports of Standing Committees

Senator Carney submitted the following report:

Austin, Texas,
May 29, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred H. B. No. 584, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

CARNEY, Chairman

Senator Hazlewood submitted the following report:

Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred H. C. R. No. 52, have had the same under consideration, and we are instructed to report it back to the Sen-

ate with the recommendation that it do pass and be printed.

HAZLEWOOD, Chairman

Senate Concurrent Resolution 78

Senator Carney offered the following resolution:

S. C. R. No. 78, Suspending the Joint Rules to consider S. B. No. 356.

Be it resolved by the Senate, the House of Representatives concurring, that the Joint Rules be suspended and they are hereby suspended to permit either House to consider Senate Bill No. 356 at any time.

The resolution was read.

On motion of Senator Carney, and by unanimous consent, the resolution was considered immediately and was adopted.

Conference Committee Report on House Bill 285

Senator Weinert submitted the following Conference Committee Report on H. B. No. 285:

Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate;

Hon. Reuben Senterfitt, Speaker of the House.

Sirs: Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H. B. No. 285 have met and had same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

WEINERT
LOCK
HUDSON
LANE
PHILLIPS

On the Part of the Senate.

LAFONT
WOOD
ZIVLEY
BRISCOE
LOVING

On the Part of the House.

H. B. No. 285, A bill to be entitled "An Act levying and allocating certain taxes to provide revenues for the payment of Old Age Assistance, aid to destitute children, and to the needy blind, obligations of the State under Teachers Retirement Act, revenues for

the highway system of this State, and for the economical and efficient operation of the State Government by amending Section 2 (1) of Article I of House Bill No. 8, Chapter 184 of Acts, 47th Legislature, so as to increase the occupation tax therein levied on the production of oil; by amending Section 1 of Article III of said House Bill No. 8 so as to increase the occupation tax therein levied on the mining and production of sulphur; by amending paragraph (1) of Section 1, of main Section 1 of House Bill 628, Chapter 269 of Acts, 49th Legislature, so as to increase the occupation tax therein levied on the production of gas; by repealing Section 5 of said House Bill 628 which provides for a determination of a market value of gas by the Comptroller upon a hearing after ten (10) days notice; by amending Subdivision (2) of Section 1 of main Section 1 of said House Bill 628 so as to designate the value of gas processed for its liquid hydrocarbon content obtained by cycling; by amending Section 1 of Article V of said House Bill No. 8 so as to increase the gross receipts tax therein levied against those owning, operating, managing or controlling any gas, electric light, electric power, water works, or water and light plants; by amending Sections 1, 2, 3 (c), 5a and 6, as each is amended, of Article VI of said House Bill No. 8, so as to increase the tax therein levied upon the retail sale of every motor vehicle sold in this State, or purchased at retail sale outside of this State, and brought into the State for use, by further defining the term 'Motor Vehicle', by providing for the making and filing of a joint affidavit by the purchaser and seller and in the event of error in amount of the consideration, providing for affidavit error fees, and by requiring the Tax Assessor and Collector to forward to the Comptroller a certain per cent of fees collected together with copies of receipts issued; by amending Section 1 of Article VII of said House Bill No. 8 so as to increase the tax therein levied upon the first sale of distilled spirits, vinous liquor, artificially carbonated and natural sparkling vinous liquor and malt liquors; by amending Section 1 of Article VIII of said House Bill No. 8, as amended by Section 1 of House Bill 777, Acts, 51st Legislature, so as to increase the franchise tax therein levied upon every domestic and foreign corporation heretofore or hereafter chartered or authorized to

do or doing business in the State; by amending Section 1 of Article X of said House Bill No. 8 so as to increase the luxury excise tax therein levied on those selling at retail, new radios, new cosmetics and playing cards, and by levying such tax on those selling at retail new television sets; by amending Section 1 (a) of Article XI of said House Bill No. 8 so as to increase the occupation tax therein levied on the production or manufacture of carbon black; by amending Article XII of said House Bill No. 8 so as to increase the tax therein levied on the first intrastate distribution, sale or use of cement manufactured or produced in and/or imported into this State; by amending Section 1 (a) of Article XIV of said House Bill No. 8 so as to increase the gross receipts tax therein levied against those doing business as a 'motor bus company' and those doing business as a 'motor carrier' and those doing business as a 'contract carrier'; so as to prescribe penalties and interest on past due taxes, so as to provide for cancellation of permits and certificates upon failure to make reports or pay the taxes therein levied, and so as to provide that the tax paid shall be for the quarter next preceding; by amending Section 1 of Article XVI of said House Bill No. 8 so as to increase the tax therein levied upon those engaged in the business of furnishing any service or performing any duty for others for a consideration with the use of any devices, tools, instruments or equipment, electrical, mechanical, or otherwise, or by means of any chemical, electrical, or mechanical process when such service is performed in connection with the cementing of the casing seat of any oil or gas well or the shooting or acidizing of formations of such wells or the surveying or the treating of the sands or other formations of the earth in any such oil or gas wells; by amending Section 1 of House Bill No. 54, Chapter 341 of Acts, 49th Legislature so as to increase the tax therein levied on the gross premium receipts of certain classes of insurance companies, or carriers, and allowing as a credit against said taxes all examination and valuation fees paid in each taxable year, and in order to prevent the levying of double taxes on said classes of insurance companies and carriers; repealing Section 1 of Article XVII of House Bill No. 3, Acts, 1st Called Session, 51st Legislature insofar as same levies a tax

on gross premium receipts for the year 1951 on said classes or carriers of insurance set forth in said Section 1 of said House Bill No. 54; by amending Sections 2 and 4 and Sections 5 and 5A, as amended, of House Bill No. 18, Chapter 400, Acts, 44th Legislature, 1st Called Session, so as to increase the chain store tax therein levied and to provide further regulations and fees; by amending Section 1 of Senate Bill No. 141, Chapter 238 of Acts, 50th Legislature, so as to increase the stock transfer tax therein levied; by amending Section 1 of House Bill 472, Chapter 620 of Acts, 51st Legislature, so as to increase the tax therein levied on the gross premium receipts of certain classes of insurance companies or carriers and in order to prevent the levying of double taxes on said classes of insurance companies or carriers, repealing Section 2 of Article XVII of House Bill No. 3, Acts, 1st Called Session, 51st Legislature, insofar as same levies a tax for the year 1951 on the gross premium receipts of said classes of insurance companies or carriers; by amending Paragraph (1) of Section 1 of Article IV of said House Bill No. 8 so as to increase the gross receipts tax therein levied on those owning, operating, managing or controlling telephone line or lines or telephones within this State with certain exceptions; by amending Section 22 of House Bill No. 84, Chapter 543, Acts, 51st Legislature, so as to increase the tax therein levied on the first sale of beer manufactured in, or imported into, this State; by amending Section 1 of House Bill No. 471, Chapter 619, Acts, 51st Legislature, so as to increase the tax on the gross premium receipts of certain classes of insurance companies or carriers, and in order to prevent the levying of double taxes on said classes of insurance companies or carriers, repealing Section 3 of Article XVII of House Bill No. 3, Acts, 1st Called Session, 51st Legislature, insofar as it levies for the year 1951 a tax on gross premium receipts of said classes of insurance companies or carriers; by amending Sections 1, 2(d), 3(a), 13 (as amended), 14 (as amended), 18, 22, 26 and 27 (as each is amended) of Article XVII of said House Bill No. 8 so as to define certain terms used in said Article, provide that the tax therein levied shall not be imposed on motor fuel delivered to a common carrier or into ocean-going vessels or barges and moved out of

the State, change the date for filing monthly distributor reports, provide for a refund of taxes paid on motor fuel used off the public highway except on construction and maintenance work paid for from funds to which motor fuel tax collections are allocated, describe applications and licenses refund dealers are required to file and secure, describe the records to be kept by refund dealers and by claimants for tax refund, describe the invoice of exemption refund dealers shall issue with each sale, or appropriation for use, of refund motor fuel, prohibit refund dealers from serving as notaries public, preparing claims or keeping records for customers, describe refund claims and the information to be shown therein, describe methods of measuring or accounting for refund motor fuel used for non-exempt purposes, authorize assignment of right to receive tax refund under certain conditions, prescribe misdemeanor for violation of refund law and forfeiture penalty for loss of exemption books, require user-dealers to collect taxes imposed on special fuels sold and delivered into fuel tanks for operating vehicles on highway, and to pay taxes on special fuels used or delivered into fuel tanks for use in motor vehicles by said user-dealers on the highway, exempt thirty gallons imported in fuel tanks of vehicles entering Texas, allow user-dealer to deduct one per cent of taxable gallonage for expense of collecting tax, making bond and keeping records, describe applications and permits required to be filed and secured by user-dealers, describe bonds to be furnished by user-dealers, with limitations, conditions and liabilities of said bonds, describe procedure for revoking permits, provide user-dealers shall be presumed to have used special fuels purchased and unaccounted for, prescribe records and tax reports to be kept and made by user-dealers, authorize Comptroller to fix amount of taxes, penalties and interest when records are not kept as required, secure taxes due on special fuels with preferred lien on user-dealer's property and equipment used in business, authorize Comptroller and peace officers to stop vehicles and examine manifests and special fuels being transported or used, include civil penalties for violations of the law by user-dealers, empower Comptroller to enforce payment of taxes and penalties found to be due on examination of records or other investigation, pre-

scribe misdemeanor fines, felony penalties and punishment for offenses named therein; levying a tax upon the occupation of gathering gas; defining certain terms; excluding certain gases for the purpose of calculating said tax; fixing liability for and date of payment of tax; providing for penalties and interest; making it unlawful for the gatherer to require the producer to pay a gathering tax as production tax; providing gatherers shall keep records and make reports of gas gathered and disposed of to Comptroller of Public Accounts; authorizing the Comptroller to prescribe forms, rules and regulations for the administration of this Act; requiring the Comptroller to employ auditors and technical assistants for purpose of verifying reports and investigating affairs of gatherers; allocating and appropriating a percentage of the taxes collected hereunder for the administration and enforcement of this Act; providing for and fixing venue of injunction suits instituted by Attorney General to enforce provisions of this Act; prescribing penalties and fixing lien to secure taxes, penalties and interest; providing for and appropriating gas audit fund; providing for and fixing venue of suits by Attorney General to collect taxes, penalties and interest, and to foreclose liens; providing that reports filed by gatherers or certified copies thereof, certified by Comptroller and audits made and sworn to by the Comptroller or his representative shall be prima-facie evidence of the contents thereof in any suit to enforce provisions of this Act; providing reports and audits showing amount of taxes due shall be prima-facie evidence thereof under stated conditions; requiring reports of transfers of interests; allocating the moneys collected under the provisions of this Act and providing for their expenditure; providing a saving clause; repealing all laws in conflict herewith; by amending Section 25 of Article XVII of House Bill No. 8, Chapter 184, Acts 47th Legislature, Regular Session, 1941, to provide for the allocation of the amount of said taxes after making deductions for refund purposes, to provide for the deposit of a sum of Seven Million Three Hundred Thousand (\$7,300,000.00) Dollars of the amount of such taxes, under certain conditions to the County and Road District Highway Fund for allocation to all of the counties of Texas each year through

the Lateral Road Account, as provided under existing laws, and to provide for the allocation and expenditure of the remainder of the amount of such taxes; by repealing Section 5 (formerly Section 6), Chapter 13, Acts 1932, 42nd Legislature, 3rd Called Session, as amended by Section 1, Chapter 3, Acts 1939, 46th Legislature, as amended by Section 1, Chapter 2, Acts 1941, 47th Legislature, 1st Called Session, as amended by Section 1, Chapter 324, Acts 1943, 48th Legislature; and to provide for repealing of conflicting laws and containing a saving clause; providing that the provisions of this House Bill 285 shall become effective on September 1st, 1951, and further providing that, except as may be otherwise provided herein, the revenues from the taxes levied herein shall be allocated as provided in Article XX of said House Bill No. 8, Chapter 184, Acts of the 47th Legislature, and any amendments thereto; and declaring an emergency."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION I

Section 2 (1) of Section 1 of Article I of House Bill No. 8, Chapter 184, of Acts, Forty-seventh Legislature, being codified as Article 7057a, Vernon's Annotated Civil Statutes, be and the same is hereby amended, so as to read as follows:

"Sec. 2. (1) There is hereby levied an occupation tax on oil produced within this State of 4.6 Cents per barrel of forty-two (42) standard gallons. Said tax shall be computed upon the total barrels of oil produced or salvaged from the earth or waters of this State without any deductions and shall be based upon tank tables showing one hundred per cent (100%) of production and exact measurements of contents. Provided, however, that the occupation tax herein levied on oil shall be 4.6 per cent of the market value of said oil whenever the market value thereof is in excess of One Dollar (\$1) per barrel of forty-two (42) standard gallons. The market value of oil, as that term is used herein, shall be the actual market value thereof, plus any bonus or premiums or other things of value paid therefor or which such oil will reasonably bring if produced in accordance with the laws, rules, and regulations of the State of Texas."

SECTION II

Section 1 of Article III of House Bill No. 8, Chapter 184 of Acts, Forty-seventh Legislature, which is codified as subdivision 40b of Article 7047, Vernon's Annotated Civil Statutes, be and the same is hereby amended, so as to read as follows:

"Section 1. Sulphur Producers: Each person, firm, association, or corporation who owns, controls, manages, leases, or operates any sulphur mine, or mines, wells, or shafts, or who produces sulphur by any method, system, or manner within this State shall make quarterly, on the first day of January, April, July, and October of each year, a report to the Comptroller in this State, or if such person be other than individual, sworn to by its president, secretary, or other duly authorized officer, on such forms as the Comptroller shall prescribe, showing the total amount of sulphur produced within this State by said person during the quarter next preceding, and at the time of making said report shall pay to the Treasurer of this State an occupation tax for the quarter ending on said date an amount equal to \$1.40 per long ton, or fraction thereof, of all sulphur produced by said person within the State of Texas during said quarter.

"Each person subject to the payment of this tax shall cause to be made, kept, and preserved a full and complete record of all sulphur produced in this State by it, all of which record shall be open at all times to official inspection and examination by the Comptroller or the Attorney General, or any employee of or representative of the Comptroller or the Attorney General. Said records may be destroyed after three (3) years from the last entry appearing in any such record. Any person failing to keep such record, or records, as herein required, shall forfeit to the State of Texas as a penalty any sum not less than Five Hundred Dollars (\$500) nor more than Five Thousand Dollars (\$5,000), payable to the State of Texas, and each ten (10) days of failure to keep such records shall constitute a separate offense and subject the offender to additional penalties for each such period of failure to keep such records. Any person subject to the payment of said tax on sulphur failing to pay the tax levied in this Article within thirty (30) days after same

is due and payable shall pay to the State as a penalty an additional amount equal to ten per cent (10%) of the taxes due, and such tax and penalty shall draw interest at the rate of six per cent (6%) per annum from the due date until paid. The Attorney General or any district or county attorney at the direction of the Attorney General shall bring suit in behalf of the State to recover the amount of taxes, penalties, and interest past due and payable by any person affected by this law. The word 'person' as used in this law shall include persons, firms, partnerships, companies, corporations, associations, common law trusts, or other concern by whatever name or howsoever organized, formed, or created.

"The Comptroller may require such other information and such additional reports as he may deem advisable.

"Said tax shall be in lieu of the tax imposed by Chapter 74, Acts, Fifth Called Session, Forty-first Legislature, and House Bill No. 251, Chapter 212, Section 1, Acts of the Regular Session of the Forty-second Legislature, and by Acts, Forty-fourth Legislature, Third Called Session, Chapter 495, Article 4, Section 6, and each and all of such Acts are hereby repealed, except as to the sulphur produced prior to the date this Act shall take effect, and the tax shall be paid on such sulphur so produced at the rate provided in such Act, and the taxes collected shall be allocated as therein provided, and all reports provided for in such Act shall be made to the Comptroller. No offense against, and no liability or penalty, either civil or criminal, incurred on account of a violation theretofore of any or all of the provisions of such Acts or any amendments thereof, shall be discharged or affected by this Act, but prosecutions and suits shall be instituted and proceeded with in all respects as if such Acts had not been repealed herein; and the procedure prescribed in such Acts or in any other applicable existing laws shall be followed in all prosecutions and suits, now pending or hereafter instituted on account of such offenses, or liabilities."

SECTION III

Paragraph (1) of Section 1, of main Section 1 of House Bill No. 628, Chapter 269 of Acts, Forty-ninth Legislature, which is codified as Section 1 (1) of Article 7047b, Vernon's An-

notated Civil Statutes of Texas, be and the same is hereby amended so as to read as follows:

"Section 1 (l). There is hereby levied an occupation tax on the business or occupation of producing gas within this State, computed as follows:

"A tax shall be paid by each producer on the amount of gas produced and saved within this State equivalent to 5.72% of the market value thereof as and when produced; provided that the amount of such tax on sweet and sour natural gas shall never be less than 121/1500 of One Cent (1c) per one thousand (1,000) cubic feet.

"In calculating the tax herein levied, there shall be excluded: (a) gas injected into the earth in this State, unless sold for such purposes; (b) gas produced from oil wells with oil and lawfully vented or flared; and, (c) gas used for lifting oil, unless sold for such purposes."

SECTION IV

Section 5 of House Bill No. 628, Acts Forty-ninth Legislature, Chapter 269, codified as Section 3-a of Article 7047b, Vernon's Annotated Civil Statutes of Texas, is hereby expressly repealed and shall be of no further force and effect.

SECTION V

Subdivision (2) of Section 1 of main Section 1 of House Bill No. 628, Chapter 269, Acts Forty-ninth Legislature, which is codified as Subdivision (2) of Section 1 of Article 7047b, Vernon's Annotated Civil Statutes of Texas, is hereby amended so as to read as follows:

"(2) The market value of gas produced in this State shall be the value thereof at the mouth of the well; however, in case gas is sold for cash only, the tax shall be computed on the producer's gross cash receipts. Payments made by purchasers to producers for the purpose of reimbursing such producers for taxes due hereunder shall not be considered a part of the producers' gross cash receipts. In all cases where the whole or a part of the consideration for the sale of gas is a portion of the products extracted from the producer's gas or a portion of the residue gas, or both, the tax shall be computed on the gross value of all things of value received by the producer, including any bonus or premium; provided that notwith-

standing any other provision herein to the contrary, where gas is processed for its liquid hydrocarbon content and the residue gas is returned by cycling methods, as distinguished from repressuring or pressure maintenance methods, to some gas producing formation, the taxable value of such gas shall be three-fifths (3/5) of the gross value of all liquids extracted, separated and saved from such gas, such value to be determined upon separation and extraction and prior to absorption, refining or processing of such hydrocarbons and such value prior to refining shall be the value of the highest posted price of crude oil in the field where said gas is produced or in the nearest oil field in the event no oil is produced in said field and the quantity of the products shall be measured by the total yield of the processing plant from such gas.

SECTION VI

Section 1 of Article V of House Bill No. 8, Chapter 184 of Acts, Forty-seventh Legislature, which is codified as Article 7060, Vernon's Annotated Civil Statutes of Texas, be and the same is hereby amended so as to read as follows:

"Section 1. That Article 7060, Revised Civil Statutes of Texas, 1925, as amended by Chapter 34, Acts of the Fifth Called Session of the Forty-first Legislature, as amended by Article IV, Section 3, Chapter 495, Acts of the Third Called Session of the Forty-fourth Legislature, be, and the same is hereby amended so as to read as follows:

"Article 7060. Each individual, company, corporation, or association owning, operating, managing, or controlling any gas, electric light, electric power, or water works, or water and light plant, located within any incorporated town or city in this State, and used for local sale and distribution in said town or city, and charging for such gas, electric lights, electric power, or water, shall make quarterly, on the first day of January, April, July, and October of each year, a report to the Comptroller under oath of the individual, or of the president, treasurer, or superintendent of such company, or corporation, or association, showing the gross amount received from such business done in each such incorporated city or town within this State in the payment of charges for such gas, electric lights, electric power, or

water for the quarter next preceding. Said individual, company, corporation, or association, at the time of making said report for any such incorporated town or city of more than one thousand (1,000) inhabitants and less than two thousand, five hundred (2,500) inhabitants, according to the last Federal Census next preceding the filing of said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date equal to .484% of said gross receipts, as shown by said report; and for any incorporated town or city of more than two thousand, five hundred (2,500) inhabitants and less than ten thousand (10,000) inhabitants, according to the last Federal Census next preceding the filing of said report, the said individual, company, corporation, or association, at the time of making said report shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to .891% of said gross receipts, as shown by said report; and for any incorporated town or city of ten thousand (10,000) inhabitants or more, according to the last Federal Census next preceding the filing of said report, the said individual, company, corporation, or association, at the time of making said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to 1.66375% of said gross receipts, as shown by said report. Nothing herein shall apply to any such gas, electric light, power or water works, or water and light plant, within this State, owned and operated by any city or town, nor to any county or water improvement or conservation district.

"Nothing herein shall be construed to require payment of the tax on gross receipts herein levied more than once on the same commodity, and where the commodity is produced by one individual, company, corporation, or association, and distributed by another, the tax shall be paid by the distributor alone.

"No city or other political subdivision of this State, by virtue of its taxing power, proprietary power, police power or otherwise, shall impose an occupation tax or charge of any sort upon any person, corporation, or association required to pay an occupation tax under this Article. Nothing in this Article shall be construed as

affecting in any way the collection of ad valorem taxes authorized by law; nor impairing or altering in any way the provisions of any contracts, agreements, or franchises now in existence, or hereafter made between a city and a public utility, relating to payments of any sort to a city. Nothing in this Article shall be construed as prohibiting an incorporated city or town from making a reasonable charge, otherwise lawful, for the use of its streets, alleys, and public ways by a public utility in the conduct of its business, and each such city shall have such right and power; but any such charges, whether designated as rentals or otherwise, and whether measured by gross receipts, units of installation, or in any manner, shall not in the aggregate exceed the equivalent of two per cent (2%) of the gross receipts of such utility within such municipality derived from the sale of gas, electric energy, or water. Any special taxes, rental, contributions, or charges accruing after the effective date of this Act, under the terms of any pre-existing contract or franchise, against any utility paying an occupation tax under this Article, when paid to any such city, shall be credited on the amount owed by such public utility on any charge or rental imposed for the use of streets, alleys, and public ways, levied by ordinance, and accruing after the effective date of this Act; provided that where valid ordinances have been enacted heretofore by cities imposing a charge or rental in excess of two per cent (2%) of the gross receipts of such utilities, nothing herein shall be construed so as to prohibit the collection of such sum as may be due said cities thereunder from the date of said ordinances up to the time this Article shall become effective.

"And provided further that utilities paying an occupation tax under this Article shall not hereafter be required to pay the license fee imposed in Article 5a, House Bill No. 18, Chapter 400, Acts of Forty-fourth Legislature, for the privilege of selling gas and electric appliances and parts for the repairs thereof, in towns of three thousand (3,000) or less in population according to the next preceding Federal Census."

SECTION VII

MOTOR VEHICLE SALES TAX

Section 1. Section 1 of Article VI of

House Bill No. 8, Acts, Forty-seventh Legislature, Regular Session, 1941, Chapter 184, as amended, which is compiled in Vernon's Annotated Civil Statutes of Texas, Article 7047k, is amended so as to read as follows:

"Section 1. (a) There is hereby levied a tax upon every retail sale of every motor vehicle sold in this State, such tax to be equal to 1.1% of the total consideration paid or to be paid to the seller by the buyer, which consideration shall include the amount paid or to be paid for said motor vehicle and all accessories attached thereto at the time of the sale, whether such consideration be in the nature of cash, credit, or exchange of other property, or a combination of these. In the event the consideration received by the seller includes any tax imposed by the Federal Government, then such Federal tax shall be deducted from such consideration for the purpose of computing the amount of tax levied by this Article upon such retail sale.

"(b) In all cases of retail sales involving the exchange of motor vehicles, the party transferring the title to the motor vehicle having the greater value shall be considered the seller, and no tax is imposed upon the transfer of a motor vehicle traded in upon the purchase of some other motor vehicle. Where such a retail sale involves an even exchange, each of the two parties to the transaction shall pay a tax of Five Dollars (\$5). Where a person makes a gift of a motor vehicle, the donee shall pay a tax of Ten Dollars (\$10)."

Section 2. Section 2 of Article VI of House Bill No. 8, Acts, Forty-seventh Legislature, Regular Session, 1941, Chapter 184, as amended, which is compiled in Vernon's Annotated Civil Statutes of Texas, Article 7047k, is amended so as to read as follows:

"Section 2. (a) There is hereby levied a use tax upon every motor vehicle purchased at retail sale outside of this State and brought into this State for use upon the public highways thereof by a resident of this State or by a person, firm or corporation domiciled or doing business in this State. Such tax shall be equal to one and one-tenth per cent (1.1%) of the total consideration paid or to be paid for said vehicle at said retail sale. The tax shall be the obligation of and be paid by the person, firm, or corporation operating said motor ve-

hicle upon the public highways of this State.

"(b) When a person makes application for the initial certificate of title in this State on a particular motor vehicle, he shall pay a use tax on that motor vehicle in the sum of Fifteen Dollars (\$15). No certificate of title or motor vehicle registration for such motor vehicle shall be issued until the use tax imposed by this subsection has been paid. However, a person is not liable for the tax imposed by this subsection if the sales or use tax imposed by any other provision of this Act has been previously paid upon such motor vehicle. It is the purpose of this subsection to impose a use tax upon motor vehicles brought into this State by new residents of this State."

Section 3. Subsection (c) of Section 3 of Article VI of House Bill No. 8, Acts, Forty-seventh Legislature, Regular Session, 1941, Chapter 184, as amended, which is compiled in Vernon's Annotated Civil Statutes of Texas, Article 7047k, is amended so as to read as follows:

"(c) The term 'motor vehicle' as used in this Act shall mean every self-propelled vehicle in or by which any person or property is or may be transported upon a public highway, including trailers and semitrailers, but shall not mean any device moved only by human power or used exclusively upon stationary rails or tracks and shall not include farm machinery or farm trailers or road building machinery or any self-propelled vehicle used exclusively to move any of the three immediately preceding vehicles."

Section 4. Section 5a of Article VI of House Bill No. 8, Acts, Forty-seventh Legislature, Regular Session, 1941, Chapter 184, as amended, which is compiled in Vernon's Annotated Civil Statutes of Texas, Article 7047k, is amended so as to read as follows:

"Section 5a. The purchaser and seller shall make a joint affidavit setting forth the then value in dollars of the total consideration, whether in money or other things of value, received or to be received by the seller or his nominee in a retail sale. Where a transfer of title to a motor vehicle is made either as the result of an even exchange or of a gift, the two principal parties to such a transaction shall make a joint affidavit setting forth the facts describing the nature of the transaction. Where any party

to a sale, exchange, even exchange or gift is a corporation, the president, vice president, secretary, manager or other authorized officer of the corporation shall make the affidavit for the corporation. When the tax imposed by this Act is paid to the Tax Assessor and Collector, the person upon whom the tax is imposed by this Act shall file with the Tax Assessor and Collector the joint affidavit required by this Section. The Tax Collector and Assessor shall keep copies of the affidavits until they have been audited by the Comptroller of Public Accounts or his representative.

"(a) The seller shall keep complete records of each motor vehicle transferred by him at a retail sale. The record shall be retained by the seller at his principal office for at least four (4) years from the date of the transfer of the motor vehicle. These records shall be open to inspection by the Tax Collector and Assessor or his representative and by the Comptroller of Public Accounts or his representative.

"(b) Where the joint affidavit incorrectly states the amount of the consideration actually received by the seller so that the tax actually paid is less than that which was actually due, the seller shall pay an affidavit error fee as follows:

"(i) Twenty-five Dollars (\$25) if the actual consideration received by the seller was from five (5) through ten (10) per cent greater than the consideration upon which the tax was paid, and

"(ii) One Hundred Dollars (\$100) if the actual consideration received by the seller was in excess of ten per cent (10%) greater than the consideration upon which the tax was paid.

"(c) The seller shall pay the affidavit error fee to the Tax Collector and Assessor. One half of the affidavit error fee shall be retained by the county as a fee of office or paid into the officers salary fund of the county, as is provided by general law. The remainder of the affidavit error fee shall be paid over to the State. The Tax Collector and Assessor shall refuse to accept an application for registration or for transfer of title of any motor vehicle from any seller who owes the Tax Collector and Assessor an affidavit error fee."

Section 5. Section 6 of Article VI of House Bill No. 8, Acts, Forty-

seventh Legislature, Regular Session, 1941, Chapter 184, as amended, which is compiled in Vernon's Annotated Civil Statutes of Texas, Article 7047k, is amended so as to read as follows:

"Section 6. The Tax Assessor and Collector shall issue a receipt to the person paying the taxes imposed by this Act, making two duplicate copies of the said receipt. The Comptroller of Public Accounts shall prescribe the form of the receipt. Between the 1st and 15th of April, July, October and of January, and more often if he so desires, the Tax Assessor and Collector shall forward ninety-five per cent (95%) of the money collected from the taxes imposed by this Act and one half of the affidavit error fees collected during the preceding three (3) months to the Comptroller of Public Accounts, together with one duplicate copy of each receipt issued by him to persons paying the tax or fee imposed by this Act. The Tax Assessor and Collector shall retain one duplicate receipt as a permanent record in his office and shall retain five per cent (5%) of the taxes and one half of the affidavit error fees collected as fees of office, or to be paid into the officers salary fund of the county as provided by general law."

SECTION VIII

Section 1 of Article VII of House Bill No. 8, Chapter 184 of Acts, Forty-seventh Legislature, which is codified as Article 666-21, Vernon's Annotated Penal Code of Texas, be and the same is hereby amended, so as to read as follows:

"Section 1. Section 21 of Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 3, Article III, House Bill No. 8, Chapter 495, Acts, Third Called Session of the Forty-fourth Legislature, and as further amended by Section 26 of Article I of Chapter 448, being H. B. No. 5, Acts, Regular Session, Forty-fifth Legislature, shall be and is amended hereby so as to read hereafter as follows:

"Sec. 21.

"There is hereby levied and imposed on the first sale in addition to the other fees and taxes levied by this Act the following:

"(a) A tax of \$1.408 per gallon on each gallon of distilled spirits, providing the minimum tax on any package of distilled spirits shall be \$0.088.

"(b) A tax of \$0.11 on each gallon

of vinous liquor that does not contain over fourteen per cent (14%) of alcohol by volume.

"(c) A tax of \$0.22 on each gallon of vinous liquor containing more than fourteen per cent (14%) and not more than twenty-four per cent (24%) of alcohol by volume.

"(d) A tax of \$0.275 on each gallon of artificially carbonated and natural sparkling vinous liquor.

"(e) A tax of \$0.55 on each gallon of vinous liquor containing alcohol in excess of twenty-four per cent (24%) by volume.

"(f) A tax of \$0.165 on each gallon of malt liquor containing alcohol in excess of four per cent (4%) by weight.

"The term 'first sale' as used in Article I of this Act shall mean and include the first sale, possession, distribution, or use in this State of any and all liquor refined, blended, manufactured, imported into, or in any other manner produced or acquired, possessed, or brought into this State.

"The tax herein levied shall be paid by affixing a stamp or stamps on each bottle or container of liquor. Said stamps shall be affixed in strict accordance with any rule or regulation promulgated in pursuance of this Act; provided, however, any holder of a permit as a retail dealer as that term is defined herein shall be held liable for any tax due on any liquor sold on which the tax has not been paid.

"It shall be the duty of each person who makes a first sale of any liquor in this State to affix said stamps on each bottle or container of liquor and to cancel the same in accordance with any rule and regulation of the Board. The Board shall have power to relax the foregoing provision when in its judgment it would be impracticable to require the affixing of such stamp on the bottle or container, irrespective of any other provision of this Act. And any person, persons, or association who violates any portion of this Section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not less than thirty (30) days nor more than one (1) year. Every holder of a permit authorizing the wholesaling of liquor, upon receipt of a shipment of liquor for sale within this State, under the provisions of this Act, shall prepare and

furnish such information and such reports as may be required by rules and regulations of the Board. Any person authorized to export liquor from this State having in his possession any liquor intended for shipment to any place without the State, shall keep such liquors in a separate compartment from that of liquors intended for sale within the State so that the same may be easily inspected and shall attach to each such package of liquor so intended for shipment without the State a stamp of the kind and character that shall be required by proper rule or regulation denoting that the same is not intended for sale within the State. When such liquors are so kept and so stamped no tax on account thereof shall be charged. For defraying the expenses thereof, a charge of Twenty-five Cents (25c) shall be made for every such stamp, except that a charge of Ten Cents (10c) shall be made for each such stamp placed on vinous or malt liquors of twenty-four per cent (24%) alcoholic content or less. All such permittees authorized to transport liquor beyond the boundaries of this State shall furnish to the Board duplicate copies of all invoices for the sale of such liquors, within twenty-four (24) hours after such liquors have been removed from their place of business.

SECTION VIII-A

Section 1. Sec. 21a of Article I of the Texas Liquor Control Act, as amended, is amended hereby so as to read hereafter as follows:

"Sec. 21a. Stamps for spirituous liquor shall be issued only in multiples of the rate assessed for each half-pint; stamps for wine shall be issued in multiples of the rate assessed for each pint and for each one-tenth (1/10) of a gallon; stamps for malt liquors containing alcohol in excess of four per cent (4%) by weight shall be issued in multiples of the rate assessed for each seven (7) fluid ounces, each eight (8) fluid ounces, or each twelve (12) fluid ounces; provided that where any such liquors are contained in containers of one-fifth (1/5) of a gallon, stamps shall be issued therefor at the assessed rate for each such type of liquor; and provided further, that where any such distilled spirits are contained in containers of one-tenth (1/10) of a gallon, stamps shall be issued therefor at the assessed rate for each such type of distilled spirits. It is further

provided that the taxes herein levied and assessed shall be paid and collected by stamps as provided in this Section. Provided further that the Board may authorize the affixing of stamps of various denominations to cases of ale if the total of such stamps affixed evidences the payment of all taxes due thereon. But nothing herein shall affect the powers and rights conferred upon the Texas Liquor Control Board in Article VII of House Bill No. 3 of the First Called Session of the Fifty-first Legislature."

SECTION IX

Section 1 of Article VIII of House Bill No. 8, Chapter 184 of Acts of Forty-seventh Legislature, as amended by Section 1 of House Bill No. 777, Chapter 536, Acts, Fifty-first Legislature, which is codified as Article 7084, be and the same is hereby amended, so as to read as follows:

"Section 1. That Article 7084, Revised Civil Statutes of Texas, as amended by Chapter 68, Section 2, Acts of the Forty-first Legislature, Fifth Called Session, as amended by Chapter 265, Section 1, Acts of the Forty-second Legislature, as amended by Chapter 184, Article VIII, Section 1, Acts of the Forty-seventh Legislature, as amended by Section 1 of H. B. 777, Chapter 536, Acts of the Fifty-first Legislature, be and the same is hereby amended so as to hereafter read as follows:

"Article 7084. Amount of Tax.

"(1) Except as herein provided, every domestic and foreign corporation heretofore or hereafter chartered or authorized to do business in Texas, or doing business in Texas, shall, on or before May first of each year, pay in advance to the Secretary of State a franchise tax for the year following, based upon that proportion of the outstanding capital stock, surplus and undivided profits, plus the amount of outstanding bonds, notes and debentures (outstanding bonds, notes and debentures shall include all written evidences of indebtedness which bear a maturity date of one (1) year or more from date of issue, and all such instruments which bear a maturity date of less than one (1) year from date of issue which represent indebtedness which has remained continuously outstanding for a period of one (1) year or more from date of inception whether or not said indebtedness has been renewed or extended

by the issuance of other evidence of same indebtedness to the same or other parties, and it is further provided that this term shall not include instruments which have been previously classified as surplus), as the gross receipts from its business done in Texas bear to the total gross receipts of the corporation from its entire business, which tax shall be computed on the basis of One Dollar and Twenty-five Cents (\$1.25) per One Thousand Dollars (\$1,000) or fractional part thereof; provided, that such tax shall not be less than Twenty-five Dollars (\$25.00) in the case of any corporation, including those without capital stock, and provided further that the tax shall in no case be computed on a sum less than the assessed value, for County ad valorem tax purposes, of the property owned by the corporation in this State. Capital stock as applied to corporations without capital stock shall mean the net assets.

"(2) Corporations, other than those enjoying the use of public highways by virtue of a certificate of public convenience and necessity granted by the Railroad Commission of Texas, which are required by law to pay annually a tax upon intangible assets, and corporations owning or operating street railways or passenger bus systems in any city or town and suburbs thereof, and corporations organized to and maintaining or owning or operating electric interurban railways, shall be required to hereafter pay a franchise tax equal to one-fifth (1/5) of the franchise tax herein imposed against all other corporations under Section (1) herein.

"(3) Except as provided in preceding Clause (2), all public utility corporations, which shall include every such corporation engaged solely in the business of a public utility as defined by the laws of Texas whose rates or services are regulated, or subject to a regulation in whole or in part, by law, shall pay a franchise tax as provided in this Article, except the same shall be based on that proportion of the issued and outstanding capital stock, surplus, and undivided profits, which the gross receipts of the business of said corporation done in this State bear to its total gross receipts instead of the gross assets; and in lieu of the rate hereinbefore prescribed said tax shall be computed on

the basis of One Dollar and Twenty-five Cents (\$1.25) per One Thousand Dollars (\$1,000) or fractional part thereof.

"For the purpose of computing the tax of corporations issuing no par stock, such stock shall be taken and considered as being of the value actually received at the time of the issuance thereof; and foreign corporations issuing such stock shall furnish the Secretary of State with the same information now required of domestic corporations issuing such stock.

"The tax levied herein shall in no case be computed on a sum less than the assessed value, for County ad valorem tax purposes, of the property owned by the corporation in this State.

"(4) Corporations engaged partly in the business of a public utility as defined in Clause (3) and partly in business embraced in Clause (1) shall pay the franchise tax in the following manner: as to those businesses which come under Clause (1) the tax shall be computed as provided in Clause (1) on that proportion of the entire taxable capital under said Clause (1) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipt of such corporation; and to those businesses which come under Clause (3) the tax shall be computed as provided in Clause (3) on that proportion of the entire taxable capital under said Clause (3) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation. The period for which such gross receipts are taken shall be for the same period used in computing the proportion of Texas taxable capital under Clauses (1) and (3).

"(5) Corporations which are now required to pay a separate franchise tax for each purpose or business authorized by their charter, shall hereafter pay only the tax provided hereunder for one purpose, and one-fourth (1/4) of such amount for each additional purpose named in their charters. Provided, however, this Article shall not apply to corporations organized under the Electric Cooperative Corporation Act. Provided however, this Article does not amend, alter, or change in anywise any provision of Chapter 86, Page 163, Forty-fifth Legislature, Acts, 1937, and provided further that nothing in this Article shall repeal

any total exemption from franchise taxes now provided by law."

SECTION X

Section 1 of Article X of House Bill No. 8, Chapter 184 of Acts, Forty-seventh Legislature, which is codified as Article 7047 1, Vernon's Annotated Civil Statutes of Texas, be and the same is hereby amended, so as to read as follows:

"Section 1. Each person, partnership, association, or corporation selling at retail new radios, new television sets or new cosmetics, shall make quarterly on the first days of January, April, July, and October of each year, a report to the Comptroller, under oath of the owner, manager, or if a corporation an officer thereof, showing the aggregate gross receipts from the sale of any of the above named items for the quarter next preceding; and shall at the same time pay to the Comptroller a luxury excise tax equal to 2.2% of said gross receipts as shown by said report.

"Every person, partnership, association, or corporation, selling at retail, playing cards shall make quarterly report as provided above showing the total number of packs or decks of such cards sold during the preceding quarter, and shall at the same time pay to the Comptroller a luxury excise tax of \$0.06 per pack or deck of such playing cards so sold.

"Nothing herein shall be construed so as to require payment of the tax on gross receipts herein levied more than once on the proceeds of the sale of the same article of merchandise. A retail sale as used herein, means a sale to one who buys for use or consumption, and not for resale. Gross receipts of a sale means the sum which the purchaser pays, or agrees to pay for an article or commodity bought at retail sale, but does not include the amount of tax provided by this section, which the seller charges and receives above the regular price of an article or commodity."

SECTION XI

Section 1 (a) of Article XI of House Bill No. 8, Chapter 184 of Acts, Forty-seventh Legislature, which is codified as Section 1 (a) of Subdivision 46 of Article 7047, Vernon's Annotated Civil Statutes of Texas, be and the same is hereby amended, so as to read as follows:

"Section 1 (a). There is hereby

levied an occupation tax on every person, agent, receiver, trustee, firm, association, or copartnership manufacturing or producing carbon black in this State, such tax to be as follows:

"1. On 'Class A' carbon black said tax to be 1342/12000 of One Cent (1c) per pound on all such carbon black produced or manufactured where the market value is Four Cents (4c) per pound or less, and shall be 4.51% of the value of all such carbon black produced or manufactured where the market value is in excess of Four Cents (4c) per pound.

"2. On 'Class B' carbon black said tax to be 341/2400 of One Cent (1c) per pound on all such carbon black produced or manufactured where the market value is Four Cents (4c) per pound or less, and shall be 5.72% of the value of all such carbon black produced or manufactured where the market value is in excess of Four Cents (4c) per pound.

"'Class A' carbon black as used in this Article means carbon black manufactured or produced by the use of less than two hundred (200) cubic feet of gas per pound of carbon black.

"'Class B' carbon black as used in this Article means carbon black manufactured or produced by the use of more than two hundred (200) cubic feet of gas per pound of carbon black.

"Should one (1) or more of the classifications herein be declared for any reason to be discriminatory or unconstitutional or for any reason invalid, then there is hereby levied on all carbon black manufactured or produced in this State a tax of 1342/12000 of One Cent (1c) per pound on all carbon black produced or manufactured where the market value is Four Cents (4c) per pound or less, and a tax of 4.51% of the value of all carbon black produced or manufactured where the market value is in excess of Four Cents (4c) per pound.

"The market value of a particular type or grade of carbon black shall be the average sales price of that type or grade of all bona fide sales made during the month on which the tax is being paid less the cost of packing, freight, and cartage. If no carbon black of the particular type or grade has been sold during the month for which the tax is being paid then the actual market value of the same shall be the average sales price of that type or grade of all bona fide sales during the last preceding month

in which a bona fide sale of that particular type or grade of carbon black was made, less packing, freight, and cartage."

SECTION XII

Article XII of House Bill No. 8, Chapter 184 of Acts, Forty-seventh Legislature, which is codified as Subdivision 41 (a) of Article 7047, Vernon's Annotated Civil Statutes of Texas, be and the same is hereby amended, so as to read as follows:

"1. (a) Cement Distributors. There is hereby imposed a tax of \$0.0275 on the one hundred (100) pounds, or fractional part thereof, of cement on every person in this State manufacturing or producing in and/or importing cement into this State, and who thereafter distributes, sells or uses the same in intrastate commerce. Said tax shall accrue on and is imposed on the first intrastate distribution, sale or use; provided, however, no tax shall be paid except on one sale, distribution or use. The person liable for said tax is hereby defined as a 'distributor,' and said tax is to be allocated as hereinafter provided."

SECTION XIII

Section 1 (a) of Article XIV of House Bill No. 8, Chapter 184, Acts, Forty-seventh Legislature, which is codified as Article 7066b of Vernon's Annotated Civil Statutes of Texas, is hereby amended, so as to hereafter read as follows:

"Section 1. (a) Each individual, partnership, company, association, or corporation doing business as a 'motor bus company' as defined in Chapter 270, Acts, Regular Session of the Fortieth Legislature, as amended by the Acts of 1929, First Called Session of the Forty-first Legislature, Chapter 78, or as 'motor carrier' or 'contract carrier' as defined in Chapter 277, Acts, Regular Session of the Forty-second Legislature, over and by use of the public highways of this State, shall make quarterly on the first days of January, April, July, and October of each year, a report to the Comptroller, under oath, of the individual, partnership, company, association, or corporation by its president, treasurer, or secretary, showing the gross amount received from intrastate business done within this State in the payment of charges for transporting persons for compensation and any freight or commodity for hire, or from other sources of revenue received from intrastate business within

this State during the quarter next preceding. Said individual, partnership, company, association, or corporation at the time of making said report, shall pay to the State Treasurer an occupation tax for the quarter next preceding said date equal to 2.42% of said gross receipts, as shown by said report. Provided, however, carriers of persons or property who are required to pay an intangible assets tax under the laws of this State, are hereby exempted from the provisions of this Article of this Act.

All rights, privileges, permits and certificates of public convenience and necessity granted to such motor bus companies, motor carriers and/or contract carriers by the Railroad Commission of Texas, may be cancelled by said Commission if the owner or owners thereof shall in any manner avoid, fail or refuse to make the reports and pay the tax in the time and manner herein provided. The said Commission shall accept as true, a certificate from the Comptroller of Public Accounts setting forth the avoidance, failure or refusal to make such reports and/or pay such tax. A penalty of ten (10) per cent shall accrue on past due taxes, and in addition thereto such delinquent taxes shall draw interest at the rate of ten (10) per cent per annum."

SECTION XIV

Section 1 of Article XVI of House Bill No. 8, Chapter 184 of Acts, Forty-seventh Legislature, which is codified as Article 7060a of Vernon's Annotated Civil Statutes of Texas, be and the same is hereby amended so as to read as follows:

Section 1. That Chapter 2 of Title 122 of the Revised Civil Statutes of Texas, 1925, as amended, shall be, and is hereby amended by adding thereto the following:

"Section 1. (a) The term 'person' shall for the purpose of this Article mean and include individuals, partnerships, firms, joint stock companies, associations, and corporations.

"(b) Every person in this State engaged in the business of furnishing any service or performing any duty for others for a consideration or compensation, with the use of any devices, tools, instruments or equipment, electrical, mechanical, or otherwise, or by means of any chemical, electrical or mechanical process when such service is performed in connection with the cementing of the casing seat of any oil or gas well or the shooting or

acidizing the formation of such wells or the surveying or testing of the sands or other formations of the earth in any such oil or gas wells, shall report on the 20th day of each month and pay to the Comptroller, at his office in Austin, Texas, an occupation tax equal to 2.42% of the gross amount received from said service furnished or duty performed, during the calendar month next preceding. The said report shall be executed under oath on a form prescribed and furnished by the Comptroller."

SECTION XV

Section 1 of House Bill No. 54, Chapter 341 of Acts, Forty-ninth Legislature, being codified as Article 7064, be, and the same is hereby amended, so as to read as follows:

"Section 1. That Article 7064, Revised Civil Statutes of Texas, 1925, as amended, be and same is hereby amended so as to hereafter read as follows:

"Every insurance corporation, Lloyd's or reciprocals, and any other organization or concern transacting the business of fire, marine, marine inland, accident, credit, title, livestock, fidelity, guaranty, surety, casualty, workmen's compensation, employers' liability, or any other kind or character of insurance business, other than the business of life insurance, personal accident insurance, life and accident insurance, or health and accident insurance for profit, written by a life insurance company, life and accident insurance company or health and accident insurance company, or for mutual benefit or protection in this State and other than fraternal benefit associations or societies in this State, and other than non-profit group hospital service plans, at the time of filing its annual statement, shall report to the Board of Insurance Commissioners the gross amount of premiums received upon property located in this State or on risks located in this State during the preceding year, and each of such insurance carriers shall pay an annual tax upon such gross premium receipts of 3.85%, provided that any such insurance carriers doing two (2) or more kinds of insurance businesses herein referred to shall pay the tax herein levied upon its gross premiums received from each of said kinds of business; and the gross premium receipts where referred to in this law shall be the total gross amount of premiums received on each and every kind of insurance or risk

written, except premiums received from other licensed companies for reinsurance, less return premiums and dividends paid policyholders, but there shall be no deduction for premiums paid for reinsurance. The gross premium receipts, as above defined, shall be reported and shown as the premium receipts in the report to the Board of Insurance Commissioners by the insurance carriers, upon the sworn statements of two (2) principal officers of such carriers. Upon receipt by the Board of Insurance Commissioners of the sworn statements, showing the gross premium receipts by such insurance carriers, the Board of Insurance Commissioners shall certify to the State Treasurer the amount of taxes due by each insurance carrier which tax shall be paid to the State Treasurer on or before the first day of March following, and the Treasurer shall issue his receipt to such carrier, which shall be evidence of the payment of such taxes. No such insurance carrier shall receive a permit to do business in this State until all such taxes are paid.

"Each such insurance organization shall also report to the Board of Insurance Commissioners on or before the first day of March of each year, the amount that it had invested on the 31st of December, preceding, in Texas securities as defined herein and the amount that it had invested on said date in similar securities in the State in which it had its highest percentage of admitted assets invested, and in computing the amount of such investments in such other State, it shall include as a part thereof that percentage of its investments in bonds of the United States of America purchased between December 8, 1941, and the termination of the war in which the United States is now engaged that its reserves for unearned premiums and loss reserves, as required in such other state, are of its total reserves. If the report of such insurance organization as of December 31st preceding, shows that such organization had invested in Texas securities, as herein defined, an amount which is not less than seventy-five per cent (75%) nor more than eighty per cent (80%) of the amount that it had invested in similar securities in the State in which it then had the highest percentage of its admitted assets invested, its tax shall be 3.025% of such gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on

such date an amount which is in excess of eighty per cent (80%) and not more than eighty-five per cent (85%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be 2.75% of such gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of eighty-five per cent (85%) and not more than eighty-eight per cent (88%) of the amount that it had invested in similar securities in the State in which it then had the highest percentage of its admitted assets invested, its tax shall be 2.2% of its gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of eighty-eight per cent (88%) and not more than ninety per cent (90%) of the amount that it had invested in similar securities in the State in which it then had the highest percentage of its admitted assets invested, its tax shall be 1.65% of such gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of ninety per cent (90%) of the amount that it had invested in similar securities in the State in which it then had the highest percentage of its admitted assets invested, its tax shall be 1.1% of such gross premium receipts. Provided, further, that the amount of all examination and valuation fees paid in each taxable year to or for the use of the State of Texas by any insurance organization hereby affected shall be allowed as a credit on the amount of premium taxes to be paid by any such insurance organization for such taxable year.

"For the purposes of this Act, Texas securities are defined as real estate in this State; bonds of the State of Texas; bonds or interest bearing warrants of any county, city, town, school district or any municipality or subdivision thereof which is now or may hereafter be constituted or organized and authorized to issue bonds or warrants under the Constitution and laws of this State; notes or bonds secured by mortgage or trust deed on property in this State insured by the Federal Housing Administrator; the cash deposits in regularly established national or state banks or trust companies in this State on the basis of average

monthly balances throughout the calendar year; that percentage of such insurance company's investments in the bonds of the United States of America, that its Texas reserves for the unearned premiums and loss reserves as may be required by the Board of Insurance Commissioners, are of its total reserves; but this provision shall apply only to United States Government bonds purchased between December 8, 1941, and the termination of the war in which the United States is now engaged; in any other property in this State in which by law such insurance carriers may invest their funds.

"No occupation tax shall be levied on insurance companies herein subjected to the gross premium receipt tax by any county, city or town. All mutual fraternal benevolent associations now or hereafter doing business in this State under the lodge system and representative form of government, whether organized under the laws of this State or a foreign state or country, are exempt from the provisions of this Article. The taxes aforesaid shall constitute all taxes collectible under the laws of this State against any such insurance carriers except maintenance taxes specially levied under the laws of this State and assessed by the Board of Insurance Commissioners to support the various activities of the divisions of the Board of Insurance Commissioners, and except if any such carrier is writing personal accident or health and accident insurance other than workman's compensation, it shall be taxed as otherwise provided by law on account of such business; and except unemployment compensation taxes levied under Senate Bill No. 5, passed by Third Called Session of the Forty-fourth Legislature and amendments thereto. No other tax shall be levied or collected from any insurance carrier by the state, county, city or any town, but this law shall not be construed to prohibit the levy and collection of state, county and municipal taxes upon the real and personal property of such carrier. Purely cooperative or mutual fire insurance companies carried on by the members thereof solely for the protection of their own property, and not for profit, shall be exempt from the provisions of this law. This Act shall be cumulative of all other laws and shall repeal Article 4758, Revised Civil Statutes of 1925, as amended, and all other laws only in so far as they levy any

tax on any of the organizations affected by this Act or otherwise conflict with this Act, except as provided above.

"Section 2. Section 1 of Article XVII of House Bill No. 3, Chapter 2, Acts of the First Called Session of the Fifty-first Legislature, (which is codified as Article 7064½, Vernon's Annotated Civil Statutes of Texas), is hereby repealed insofar, and only insofar, as it levies a tax on premium receipts for the year 1951."

SECTION XVI

Section 1. Section 2 of House Bill No. 18, Chapter 400 of the Forty-fourth Legislature, First Called Session, 1935, which is compiled as Section 2 of Article 1111d, Vernon's Annotated Penal Code of Texas, is amended so as to read as follows:

"Sec. 2. (a) Any person, agent, receiver, trustee, firm, corporation, association or copartnership desiring to operate, maintain, open or establish a store or mercantile establishment in this State shall apply to the Comptroller of Public Accounts for a license so to do. The application for a license shall be made on a form which shall be prescribed and furnished by the Comptroller of Public Accounts and shall set forth the name of the owner, manager, trustee, lessee, receiver, or other person desiring such license, the name of such store or mercantile establishment, the location, including the street number of such store, or mercantile establishment, and such other facts and information as the Comptroller of Public Accounts may require. If the applicant desires to operate, maintain, open or establish more than one such store or mercantile establishment, such applicant shall make application for a license to operate, maintain, open or establish each such store or mercantile establishment, but the respective stores or mercantile establishments for which the applicant desires to secure licenses may all be listed on one application blank.

"(b) It is hereby made the further duty of the Comptroller to collect, supervise, and enforce the collection of all license and application fees that may be due under the provisions of this Act and to that end the said Comptroller is hereby vested with all of the power and authority conferred by this Act. The Comptroller is further authorized and empowered to promulgate rules and regulations to provide for the collection of the

amount of license and application fees due under the provisions of this Act and on the effective date of this Act.

"The Comptroller is hereby directed to determine the true ownership of any store or stores or establishments or departments, regardless of the name or operating name and collect the tax levied herein accordingly.

"(c) Each application shall be accompanied by a filing fee of One Dollar (\$1) for each store or mercantile establishment operated or to be operated for the purpose of defraying the cost of the administration of this Act and the same is hereby appropriated. This application shall be mailed to the Comptroller and accompanying the application and the application fee shall be the amount of license due under the provisions of this Act. Those applications not mailed and which require the visit of a member of the Comptroller's staff for the collection of the application fee or the license fee shall pay a service fee of Five Dollars (\$5) for each store.

"(d) Each application shall be signed and sworn to by the applicant as being true and correct, before an officer authorized to administer oaths, and may contain such other information as the applicant may wish to include, or as the Comptroller may require."

Section 2. Section 4 of House Bill No. 18, Chapter 400, Forty-fourth Legislature, First Called Session, 1935, which is compiled as Section 4 of Article 1111d, Vernon's Annotated Penal Code of Texas, is amended so as to read as follows:

"Sec. 4. All licenses shall be so issued as to expire on the 31st day of December of each year. On or before the thirty-first day of December of each year every person, agent, receiver, trustee, firm, corporation, association, or copartnership having a license shall apply to the Comptroller of Public Accounts for a renewal license for the calendar year next ensuing. All applications for renewal licenses shall be made on forms which shall be prescribed and furnished by the Comptroller of Public Accounts. Each such application for a renewal license shall be accompanied by a filing fee of One Dollar (\$1) for each store or mercantile establishment operated or to be operated and by the license fee as prescribed in Section 5 of this Act. This application shall be mailed to the Comptroller and accompanying the application and the

application fee, shall be the amount of license due under the provisions of this Act. Those applications not mailed and which require the visit of a member of the Comptroller's staff for the collection of the application fee or the license fee shall pay a service fee of Five Dollars (\$5) for each store. If the application is not received by the due date there shall be an added late fee of Fifty Cents (50c) on each application and a five per cent (5%) penalty added to the amount of the license fee."

Section 3. Section 5 and Section 5a of House Bill No. 18, Acts, Forty-fourth Legislature, First Called Session, 1935, Chapter 400, as amended, which are compiled as Sections 5 and 5a of Article 1111d, Vernon's Annotated Penal Code of Texas, are amended to read as follows:

"Sec. 5. (a) Every person, agent, receiver, trustee, firm, corporation, association or copartnership opening, establishing, operating or maintaining one or more stores or mercantile establishments within this State, under the same general management, or ownership, shall pay the license fees hereinafter prescribed for the privilege of opening, establishing, operating or maintaining such stores or mercantile establishments. Every person, agent, receiver, trustee, firm, corporation, association and/or copartnership opening, establishing, operating and/or maintaining one or more stores or mercantile establishments within this State under the same general management and/or ownership and selling therein any equipment or appliances operated and/or used in connection with any electrical current and/or natural gas and/or artificial gas whether the same be in connection with the sale of electrical current and/or natural gas and/or artificial gas or not and whether such person, firm, agent, receiver, trustee, corporation, association and/or copartnership be also engaged in the business of furnishing some public utility services or not shall pay the license fees herein prescribed for the privilege of opening, establishing, operating and/or maintaining such stores or mercantile establishments. The license fee herein prescribed shall be paid annually and shall be in addition to the filing fee prescribed in Sections 2 and 4 of this Act. Provided that the term 'store, stores, mercantile establishment, and mercantile establishments,'

wherever used in this Act shall not include: any place or places where or from which nothing is sold except ice; any wholesale and/or retail lumber and/or building material place of business, provided as much as seventy-five percent (75%) of the gross proceeds of the business done each preceding calendar year at such place of business is derived from the sale of lumber and/or building material, provided that the term 'building material' as used herein shall be construed to include any material which is used or usable in the construction of buildings, improvements or structures, including materials consumed in and any article to be built into and become a part of buildings, improvements or structures; also mechanics hand tools used in the construction of buildings, improvements, or structures; and/or oil and gas well suppliers and equipment dealers; and any place of business commonly known as a gasoline filling station, service station, or gasoline bulk station or plant, provided as much as seventy-five per cent (75%) of the gross proceeds of the business done thereat is derived from the selling, storing, or distributing of petroleum products; or business now paying an occupation tax measured by gross receipts except as otherwise specified in this Act; or any place or places of business used as bona fide wholesale or retail distributing points by manufacturing concerns for distribution of products of their own manufacture only; or any place or places of business used by bona fide processors of dairy products for exclusive sale at retail of such products; or any place or places of business commonly known as religious bookstores operated for the purpose of selling religious publications of any nature including Bibles, Song Books, Books upon Religious Subjects, Church Offering Envelopes, Church, Sunday School, and Training Union Supplies; or any restaurants, sandwich shops and other eating places; or any business operating for the purpose of parking automobiles, parking lots, garages; or any radio station; provided that gas and/or electric utilities shall not hereafter be required to pay any license fee under this Act for the privilege of operating in towns of three thousand (3,000) population or less according to the next

preceding Federal census, a store or stores for the purpose of selling gas and/or electrical appliances and/or parts for the repair thereof, provided as much as seventy-five per cent (75%) of the total gross receipts in the preceding calendar year in each such town where such a store or stores are located is derived from the sale therein of gas and/or electric service, and provided further that for the privilege of operating a store or stores in the towns of more than three thousand (3,000) population, according to the next preceding Federal census, for the purpose of selling any or all of the above named commodities, gas and/or electrical utilities shall pay only the fees imposed by Sections 2, 4 and 5 of this Act.

"(b) The license fees herein prescribed shall be as follows:

"1. Upon one (1) store the license fee shall be Four Dollars (\$4);

"2. Upon each additional store in excess of one (1) but not to exceed two (2), the license fee shall be Nine Dollars (\$9);

"3. Upon each additional store in excess of two (2), but not to exceed five (5), the license fee shall be Twenty-seven Dollars and Fifty Cents (\$27.50).

"4. Upon each additional store in excess of five (5), but not to exceed ten (10), the license fee shall be Fifty-five Dollars (\$55).

"5. Upon each additional store in excess of ten (10), but not to exceed twenty (20), the license fee shall be One Hundred and Sixty-five Dollars (\$165).

"6. Upon each additional store in excess of twenty (20), but not to exceed thirty-five (35), the license fee shall be Two Hundred and Seventy-five Dollars (\$275).

"7. Upon each additional store in excess of thirty-five (35), but not to exceed fifty (50), the license fee shall be Five Hundred and Fifty Dollars (\$550).

"8. Upon each additional store in excess of fifty (50), the license fee shall be Eight Hundred and Twenty-five Dollars (\$825).

"(c) All those establishments, except religious bookstores, exempted from the above schedule by this Act shall file an application as required by Sections 2 and 4 of this Act. If they meet the requirements of this Act for exemption, they shall pay an

exemption fee of Four Dollars (\$4) for one store and Nine Dollars (\$9) for each additional store in excess of one.

"(d) All fees listed above are for a period of twelve (12) months. Upon the issuance of any license after the first day of January of any one year for the remainder of the year, there shall be collected such fractional part of the license fee hereinabove fixed as the remaining months in the calendar year (including the month in which such license is issued) bears to the twelve (12) month period."

SECTION XVII

Section 1 of Senate Bill No. 141, Chapter 238 of Acts, Fiftieth Legislature, which is codified as Article 7047m, Vernon's Annotated Civil Statutes of Texas, be and the same is hereby amended, so as to read as follows:

"Section 1. Section 1 of Article XV of House Bill No. 8, Acts of the 47th Legislature, is hereby amended so as to read hereafter as follows:

"Section 1. There is hereby imposed and levied a tax as hereinafter provided on all sales; agreements to sell; or memoranda of sales; and all deliveries or transfers of shares; or certificates of stock; or certificates for rights to stock; or certificates of deposit representing an interest in or representing certificates made taxable under this Section in any domestic or foreign association, company, or corporation; or certificates of interest in any business conducted by trustee or trustees made after the **effective date** hereof, whether made upon or shown by the books of the association, company, corporation, or trustee, or by any assignment in blank or by any delivery of any papers or agreement or memorandum or other evidence of sale or transfer or order for or agreement to buy, whether intermediate or final, and whether investing the holder with the beneficial interest in or legal title to such stock or other certificate taxable hereunder, or with the possession or use thereof for any purpose, or to secure the future payment of money or the future transfer of any such stock, or certificate, on each hundred dollars of face value or fraction thereof, \$0.033 except in cases where the shares or certificates are issued without designated monetary value, in which case the tax shall be at the rate of \$0.033 for each and every share. It shall be the duty of the per-

son or persons making or effectuating the sale or transfer to procure, affix and cancel the stamps and pay the tax provided by this Article. It is not intended by this Article to impose a tax upon an agreement evidencing the deposit of certificates as collateral security for money loaned thereon, which certificates are not actually sold, nor upon such certificates so deposited, nor upon transfers of such certificates to the lender or to a nominee of the lender or from one nominee of the lender to another, provided the same continue to be held by such lender or nominee or nominees as collateral security as aforesaid; nor upon the retransfer of such certificates to the borrower; nor upon transfers of certificates from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, provided the same continue to be held by such nominee or nominees for the same purpose for which they would be held if retained by such fiduciary, or from the nominee to such fiduciary; nor upon mere loans of stock or certificates, or the return thereof; nor upon deliveries or transfers to a broker for sale; nor upon deliveries or transfer by a broker to a customer for whom and upon whose order he has purchased the same, but transfers to the lender, or to a nominee or nominees as aforesaid, or retransfers to the borrower or fiduciary; and deliveries or transfers to a broker for sale, or by a broker to a customer for whom and upon whose order he has purchased the same shall be accompanied by a certificate setting forth the fact; nor upon transfers or deliveries made pursuant to an order of the Federal Securities and Exchange Commission which specifies and itemizes the securities ordered by it to be delivered or transferred (Provided that this exemption shall not apply to such transfers or deliveries made before the passage of this Act); nor upon record transfers following such transfers or deliveries; nor in respect to shares or certificates of stock or certificates of rights to stocks, or certificates of deposit representing certificates of the character taxed by this Article, in any domestic association, company, or corporation, if neither the sale, nor the order for, nor agreement to buy, nor the agreement to sell, nor the memorandum of sale, nor the delivery is made in this State and when no act necessary to effect the sale or transfer is done in this State. The

payment of such tax shall be denoted by an adhesive stamp or stamps affixed as follows: In the case of a sale or transfer, where the evidence of the transaction is shown only by the books of the association, company, corporation, or trustee, the stamp shall be placed upon such books, and it shall be the duty of the person making or effectuating such sale or transfer to procure and furnish to the association, company, corporation, or trustee the requisite stamps, and of such association, company, corporation, or trustee to affix and cancel the same. Where the transaction is effected by the delivery or transfer of a certificate the stamp shall be placed upon the surrendered certificate and canceled; and in cases of an agreement to sell, or where the sale is effected by delivery of the certificate assigned in blank, there shall be made and delivered by the seller to the buyer, a bill or memorandum of such sale, to which the stamp provided for by this Article shall be affixed and canceled; provided, however, that such bill or memorandum may be made in duplicate and the stamp provided for by this Article may be affixed to a duplicate of such bill or memorandum and canceled; and such duplicate of such bill or memorandum may be kept by the party making such sale in his possession, provided that he shall enter upon the original of such bill or memorandum a date and number showing that such bill or memorandum was made in duplicate and that the stamp was affixed to the duplicate thereof retained by the seller. Every such bill or memorandum of sale or agreement to sell shall show the date of the transaction which it evidences, the name of the seller, the stock, or other certificate, to which it relates, and the number of shares thereof. All such bills or memoranda of sale shall bear a number upon the face thereof and no more than one such bill or memorandum of sale made by the seller on any given day shall bear the same number. The aforesaid identification number of the bill or memorandum of sale shall in all cases be entered and recorded in a book of account."

SECTION XVIII

Section 1 of House Bill No. 472, Chapter 620 of Acts, Fifty-first Legislature, which is codified as Article 7064a, Vernon's Annotated Civil Statutes of Texas, be and the same is here-

by amended, so as to read as follows:

"Section 1. Every group of individuals, society, association, or corporation (all of which shall be deemed included in the term 'insurance organization' wherever used in this Act) organized under the laws of this State and transacting the business of life insurance, personal accident insurance, life and accident insurance, or health and accident insurance for profit, or for mutual benefit, or protection in this State shall on or before the first day of March of each year file its annual statement showing the gross amount of premiums collected during the year ending December 31st, preceding, from persons residing or domiciled in this State on policies of insurance, and showing in separate columns the first-year premiums and the renewal premiums collected on such Texas policies, and each such insurance organization, except local mutual aid associations, fraternal benefit societies, and fraternal insurance associations or societies that limit their membership to one (1) occupation, shall pay an annual tax of 1.1% of the gross amount of premiums collected during such year from persons residing or domiciled in the State of Texas on policies of insurance. Each such insurance organization shall also report to the Board of Insurance Commissioners on or before the first day of March of each year the amount that it had invested on the 31st day of December, preceding, in Texas securities as defined by Article 4766 of the Revised Civil Statutes of Texas, 1925, as amended; provided, however, that all such insurance companies whose gross premium receipts are less than Four Hundred and Fifty Thousand Dollars (\$450,000.00) for the preceding year ending December 31st, wherever and irrespective of from whom collected, according to its annual statement which shall disclose such information, shall pay a tax of 55/80 of 1% of the gross amount of premiums collected during such year from persons residing or domiciled in the State of Texas except as to first-year premiums as provided herein; provided, however, that the gross premium taxes herein imposed shall not be applicable to first-year premiums; and provided further that where any policy is written on a term plan only the premium collected during the first year shall be deducted on such policy or any renewal extension or substitution thereof by the com-

pany issuing such term policy, and provided further that the amount of all examination and valuation fees paid in such taxable year to or for the use of the State of Texas by any insurance organization hereby affected shall be allowed as a credit on the amount of premium taxes to be paid by any such insurance organization for such taxable year. Such gross premium receipts so reported shall not include premiums received from other licensed companies for reinsurance of business in Texas and there shall be no deduction for premiums paid for reinsurance. If any such insurance organization does more than one (1) kind of insurance business, then it shall pay the tax herein levied upon the gross premiums on each kind of insurance written. The report of the gross premium receipts and the invested assets shall be made upon the sworn statement of two (2) principal officers.

"Upon receipt by it of the sworn statement above provided, the Board of Insurance Commissioners shall certify to the State Treasurer the amount of taxes due by such insurance organization which shall be paid to the State Treasurer on or before the fifteenth day of March, following, and the State Treasurer shall issue his receipt therefor as evidence of the payment of such tax. Such taxes shall be for and on account of business transacted within this State during the calendar year ending December 31st, in which such premiums were collected, or for that portion of the year during which the insurance organization transacted business in this State. The taxes aforesaid shall constitute all taxes and license fees collectible under the laws of this State from any such insurance organization, organized under the laws of this State, except, and only except unemployment compensation taxes levied under Senate Bill No. 5, passed at the Third Called Session of the Forty-fourth Legislature and amendments thereto; and the fees provided for under Article 3920 of the Revised Civil Statutes of Texas, 1925, and amendments thereto; and in the case of companies operating under Article 4742 of the Revised Civil Statutes of Texas, 1925, the deposit fees prescribed by that Article and amendments thereto; and in case of companies writing workman's compensation insurance, the taxes otherwise provided by law on account of such business; and no other taxes shall be

levied or collected by the State or any county, city or town except State, county, and municipal ad valorem taxes upon real or personal properties of such insurance organization.

"Section 2. Section 2 of Article XVII of House Bill No. 3, Acts of the First Called Session of the Fifty-first Legislature, (which is codified as Article 7064a-1, Vernon's Annotated Civil Statutes of Texas) is hereby repealed insofar and only insofar as it levies a tax on premium receipts for the year 1951."

SECTION XIX

Paragraph (1) of Section 1 of Article IV of House Bill No. 8, Chapter 184 of Acts, Forty-seventh Legislature, which is codified as Article 7070, Vernon's Annotated Civil Statutes of Texas, be and the same is hereby amended, so as to read as follows:

"(1) Each individual, company, corporation, or association owning, operating, managing, or controlling any telephone line or lines, or any telephones within this State and charging for the use of same, shall make quarterly, on the first day of January, April, July, and October of each year, a report to the Comptroller, under oath of the individual, or of the president, treasurer, or superintendent of such company, corporation, or association, showing the gross amount received from all business within this State during the preceding quarter in the payment of charges for the use of its line or lines, telephone and telephones, and from the lease or use of any wires or equipment within this State during said quarter. Said individuals, companies, corporations, and associations, at the time of making said report, shall pay to the State Treasurer, and there is hereby levied upon said individuals, companies, corporations, and associations, an occupation tax for the quarter beginning on said date, equal to 1.65% of the gross receipts, as shown by said report, received from doing business outside of incorporated cities and towns and within incorporated cities and towns of less than two thousand, five hundred (2,500) inhabitants, according to the last preceding Federal census; an occupation tax for the quarter beginning on said date, equal to 1.925% of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than two thousand, five hundred (2,500) inhabitants, and

not more than ten thousand (10,000) inhabitants, according to the last preceding Federal census; an occupation tax for the quarter beginning on said date, equal to 2.5025% of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than ten thousand (10,000) inhabitants, according to the last preceding Federal census. Nothing herein shall apply to any telephone line or lines owned and operated by a cooperative, non-profit, membership corporation."

SECTION XX

Section 22 of House Bill No. 84, Chapter 543, Acts, Fifty-first Legislature, which is codified as Article 667-23, Vernon's Annotated Penal Code of Texas, be and the same is hereby amended, so as to read as follows:

"Sec. 22. Section 23 of Article II, of the Texas Liquor Control Act, as amended, is hereby amended so as to read as follows:

"Section 23. There is hereby levied and assessed a tax at the rate of \$1.37 per barrel on the first sale of all beer manufactured in Texas and on the importation of all beer imported into this state."

SECTION XXI

Section 1 of House Bill No. 471, Chapter 619 of Acts, Fifty-first Legislature, being codified as Article 4769, Vernon's Annotated Civil Statutes, be and the same is hereby amended so as to read as follows:

"Section 1. Every group of individuals, society, association or corporation (all of which shall be deemed included in the term 'insurance organization' wherever used in this Act) not organized under the laws of this State and transacting the business of life insurance, personal accident insurance, life and accident insurance, or health and accident insurance for profit, or for mutual benefit, or protection in this State shall on or before the first day of March of each year file its annual statement showing the gross amount of premiums collected during the year ending December 31st, preceding, from persons residing or domiciled in this State on policies of insurance, and showing in separate columns the first-year premiums and the renewal premiums collected on such Texas policies, and each such insurance organization, except local mutual aid associations, fraternal benefit societies, and fra-

ternal insurance associations or societies that limit their membership to one (1) occupation, shall pay an annual tax of 3.3% of the gross amount of premiums collected during such year from persons residing or domiciled in the State of Texas on policies of insurance. Each such insurance organization shall also report to the Board of Insurance Commissioners on or before the first day of March of each year the amount that it had invested on the 31st of December, preceding, in Texas securities as defined by Article 4766 of the Revised Civil Statutes of Texas, 1925, as amended, and the amount that it had invested on said date in similar securities in the State in which it had its highest percentage of admitted assets invested, and in computing the amount of such investments it shall include as a part thereof that percentage of its investments in bonds of the United States of America that its reserves on policies of insurance issued on the lives of persons residing or domiciled in Texas are of its total reserves on all policies outstanding, but in no event shall it include any amount of such bonds in excess of the amount thereof reported by said company as Texas securities in its Texas tax return covering the year 1946. If the report of such insurance organization as of December 31, preceding, shows that such organization had invested in such Texas securities an amount which is more than seventy-five per cent (75%) and not more than eighty per cent (80%) of the amount that it had invested in similar securities in the State in which it then had the highest percentage of its admitted assets invested, its tax shall be 3.025% of such gross premium receipts; if the report shows that such insurance organization had invested in such Texas securities on such date an amount which is more than eighty per cent (80%) and not more than eighty-five per cent (85%) of the amount that it had invested in similar securities in the State in which it then had the highest percentage of its admitted assets invested, its tax shall be 2.75% of such gross premium receipts; if the report shows that such insurance organization had invested in such Texas securities on such date an amount which is more than eighty-five per cent (85%) and not more than ninety per cent (90%) of the amount that it had invested in similar securities in the State in which

it then had the highest percentage of its admitted assets invested, its tax shall be 2.2% of such gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of ninety per cent (90%) of the amount that it had invested in similar securities in the State in which it then had the highest percentage of its admitted assets invested, its tax shall be 1.925% of such gross premium receipts; provided, however, that all such insurance companies whose gross premium receipts are less than Four Hundred and Fifty Thousand Dollars (\$450,000) for the preceding year ending December 31st, wherever and irrespective of from whom collected, according to its annual statement which shall disclose such information, shall pay a tax of 55/80 of 1% of the gross amount of premiums collected during such year from persons residing or domiciled in the State of Texas except as to first-year premiums as provided herein; provided, however, that the gross premium taxes herein imposed shall not be applicable to first-year premiums; and provided further that where any policy is written on a term plan only the premium collected during the first year shall be deducted on such policy or any renewal, extension or substitution thereof by the company issuing such term policy, and provided further that the amount of examination and valuation fees paid in such taxable year to or for the use of the State of Texas by any insurance organization hereby affected shall be allowed as a credit on the amount of premium taxes to be paid by any such insurance organization for such taxable year. Such gross premium receipts so reported shall not include premiums received from other licensed companies for reinsurance of business in Texas and there shall be no deduction for premiums paid for reinsurance. If any such insurance organization does more than one (1) kind of insurance business, then it shall pay the tax herein levied upon the gross premiums on each kind of insurance written. The report of the gross premium receipts and the invested assets shall be made upon the sworn statement of two (2) principal officers.

"Upon receipt by it of the sworn statement above provided, the Board of Insurance Commissioners shall certify to the State Treasurer the

amount of taxes due by such insurance organizations which shall be paid to the State Treasurer on or before the fifteenth day of March, following, and the State Treasurer shall issue his receipt therefor as evidence of the payment of such tax. Such taxes shall be for and on account of business transacted within this State during the calendar year ending December 31st, in which such premiums were collected, or for that portion of the year during which the insurance organization transacted business in this State. The taxes aforesaid shall constitute all taxes and license fees collectible under the laws of this State from any such insurance organization, not organized under the laws of this State, except, and only except unemployment compensation taxes levied under Senate Bill No. 5, passed at the Third Called Session of the Forty-fourth Legislature and amendments thereto; and the fees provided for under Article 3920 of the Revised Civil Statutes of Texas, 1925, and amendments thereto; and in the case of companies operating under Article 4742 of the Revised Civil Statutes of Texas, 1925, the deposit fees prescribed by that Article and amendments thereto; and in case of companies writing workman's compensation insurance, the taxes otherwise provided by law on account of such business; and no other taxes shall be levied or collected by the State or any county, city, or town, except State, county and municipal ad valorem taxes upon real or personal properties of such insurance organizations.

"Section 2. Section 3 of Article XVII of House Bill No. 3, Acts of the First Called Session of the Fifty-first Legislature, (which is codified as Article 4769½, Vernon's Annotated Civil Statutes of Texas) is hereby repealed insofar and only insofar as it levies a tax on premium receipts for the year 1951."

SECTION XXII

Section 1. That Section 1, Article XVII of Chapter 184, Acts of the Regular Session of the Forty-seventh Legislature, be and the same is hereby amended to read hereafter as follows:

"Section 1. The following words, terms and phrases shall, for all purposes of this Article, be defined as follows:

"(a) 'Motor fuel' shall mean and include any volatile or inflammable liquid by whatever name such liquid

may be known or sold, with a flash point of one hundred and twelve (112) degrees Fahrenheit or below, according to the United States official closed testing cup method of the United States Bureau of Mines, which is used or is capable of being used, either alone or when blended, mixed, or compounded for the purpose of generating power for the propulsion of any internal combustion engines or any motor vehicles. The term 'motor fuel' shall not however, include the fuels hereinafter defined as 'liquefied gas' or 'other liquid fuels,' upon which products taxes are levied by Section 14 of this Article, and which fuels are hereinafter referred to as "special fuels."

"(b) 'Liquefied gas' shall mean and include all combustible gases which liquefy at certain temperatures and pressures, but which exist in the gaseous state at sixty (60) degrees Fahrenheit, and at a pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute.

"(c) 'Other liquid fuels' shall mean any liquid petroleum products, or substitute therefor, having a flash point above one hundred and twelve (112) degrees Fahrenheit, according to the United States official closed testing cup method of the United States Bureau of Mines, including diesel fuel, kerosene, distillate, condensate, or similar products that may be used as fuel to generate power for the propulsion of motor vehicles upon the highways of this State.

"(d) 'Special fuels' shall mean and include 'liquefied gas,' or 'other liquid fuels,' as those products are hereinabove defined, or said term shall mean both of said products where the context clearly indicates that a combination of the two products is intended.

"(e) 'Motor vehicle' shall mean and include any automobile, truck, tractor, bus, vehicle, engine, machine, mechanical contrivance, or other conveyance which is propelled by an internal combustion engine or motor.

"(f) 'Vehicle tanks' shall mean an assembly used for the transportation, hauling, or delivery of liquids, comprising a tank, which may be one compartment or may be subdivided into two (2) or more compartments, mounted upon a wagon, automobile, truck, or trailer, together with its accessory piping, valves, meter, etc. The term 'compartment' shall be construed to mean the entire tank when-

ever this is not subdivided; otherwise, it shall mean any one of those subdivided portions of the tank which is designed to hold liquid.

"(g) 'Distributor' shall mean and include every person in this State who refines, distills, manufactures, produces, blends, or compounds motor fuel or blending materials, or in any other manner acquires or possesses motor fuel or blending materials for the purpose of making a first sale, use, or distribution of the same in this State; and it shall also include every person in this State who ships, transports, or imports any motor fuel or blending materials into this State and makes the first sale, use, or distribution of same in this State; the said term shall also include every person in this State who produces or collects the liquid residuum of natural gas, commonly known as drip gasoline, or who is responsible for the production or formation of said drip gasoline, intentionally or otherwise, unless said product is totally destroyed or rendered neutral as motor fuel or as a product capable of use as motor fuel in this State.

"(h) 'User-dealer' shall mean and include any distributor, dealer, or other person selling and delivering special fuels in this State into the fuel tank of any motor vehicle for use in propelling said motor vehicle upon the public highways of Texas; the said term shall also mean and include any distributor, dealer, or other person who shall acquire any special fuels tax free and use it or deliver it into a fuel tank for use to propel motor vehicles operated by said distributor, dealer or other person upon the public highway of Texas.

"(i) 'Distribution' shall mean and include any transaction, other than a sale, in which ownership or title to motor fuel, or any derivative of crude oil or natural gas, passes from one person to another.

"(j) 'Person' shall mean and include every individual, firm, association, joint stock company, syndicate, co-partnership, corporation (public, private, or municipal), trustee, agency, or receiver.

"(k) 'Dealer' shall mean and include every person other than a distributor who engages in the business in this State of distributing or selling motor fuel within this State.

"(l) 'Public highway' shall mean and include every way or place of

whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel, and notwithstanding that the same may be temporarily closed for the purpose of construction, maintenance, or repair.

"(m) 'Comptroller' shall mean Comptroller of Public Accounts of the State of Texas.

"(n) 'First Sale' shall mean the first sale or distribution in this State of motor fuel refined, blended, imported into, or in any other manner, produced in, acquired, or brought into this State.

"(o) 'Refund Motor Fuel' shall mean motor fuel used, sold or disposed of for any purpose for which a refund of the tax paid thereon is authorized by law. And any motor fuel so used or disposed of shall be construed to have been used or disposed of for 'refund purposes.'

"(p) 'Refund Dealer' shall mean any dealer, distributor, or other person who engages in the selling of refund motor fuel, or who appropriates for his own use and consumption motor fuel on which a refund of the tax paid on such motor fuel is authorized by this Article."

Section 2. That Subsection (d) of Section 2, Article XVII of Chapter 184, Acts of the Regular Session of the Forty-seventh Legislature, be and the same is hereby amended to read hereafter as follows:

"(d) No tax shall be imposed upon the sale, use, or distribution of any motor fuel, the imposing of which would constitute an unlawful burden on interstate commerce, and no tax shall be imposed upon the sale of any motor fuel for export from the State of Texas (including both sales in interstate and foreign commerce) where the motor fuel is delivered to a common carrier, ocean-going vessel (including ship, tanker or boat), or a barge, and is moved forthwith outside of this State. Provided however, that the Comptroller may require satisfactory evidence of any such sale, use, distribution or delivery. In the event this Article is in conflict with the Constitution of the United States or any Federal law, with respect to the tax levied upon the first sale, distribution, or use of motor fuel in this State, then it is hereby declared to be the intention of this article to impose the tax levied herein upon the first subsequent sale, distribution, or

use of said motor fuel which may be subject to being taxed."

Section 3. That Subsection (a) of Section 3, Article XVII of Chapter 184, Acts of the Regular Session of the Forty-seventh Legislature, be and the same is hereby amended to read hereafter as follows:

"(a) Every distributor who shall be required to collect the tax levied by this Article upon the first sale or distribution of motor fuel in this State, or who shall be required to pay the tax levied herein upon motor fuel used by said distributor, shall upon the 25th day of each calendar month remit or pay over to the State of Texas at the office of the Comptroller at Austin, Travis County, Texas, the amount of such tax required to be collected during the calendar month next preceding and the amount of such tax required to be paid upon motor fuel used by said distributor during said preceding calendar month, and at the same time, such distributor shall make and deliver to the Comptroller at his office in Austin, Travis County, Texas, a report properly sworn to and executed by such distributor, or his representative in charge, which shall show the date said report was executed, the name and address of said distributor, and the month which the report covers, and which report shall show separately by gallons the motor fuel on hand at the beginning and at the end of the month, and complete information of all motor fuel handled during the month, including motor fuel purchased or received in interstate commerce, motor fuel purchased or received in intrastate commerce, reflecting separately the quantity received with the tax paid and the quantity received without the tax having been paid, motor fuel refined, motor fuel acquired by blending, motor fuel sold in interstate commerce, motor fuel sold in intrastate commerce, motor fuel sold and exported, motor fuel sold to the United States Government, motor fuel sold to a distributor for further refining, processing, blending, or for exportation upon which no tax was collected, motor fuel lost by fire or other accident, motor fuel lost by refinery shrinkage, evaporation, or other losses, and motor fuel used and consumed by the distributor and his representatives. The said report shall also show complete information by gallons of all blending materials pur-

chased, acquired, sold, used, and lost by fire or otherwise, during the month the report covers, and the beginning and ending inventories of such blending materials. Said report shall also show a complete record of the number of barrels of crude oil refined and the number of cubic feet of gas processed. Provided that where a qualified distributor has not sold, used, or distributed any motor fuel during any month or part thereof, he shall nevertheless file with the Comptroller the report required herein setting forth such fact or information. Provided further, that the Comptroller may prepare and furnish a form prescribing the order in which the information required herein shall be set up on said monthly report, but the failure of any distributor to obtain such form from said Comptroller shall be no excuse for the failure to file a report containing all the information required to be reported herein. Every distributor, at the time of making said report, shall attach legal tender thereto or make proper form of money order or exchange payable to the State Treasurer in the amount of tax for the period covered by the report."

Section 4. That Section 13, Article XVII of Chapter 184, Acts of the Regular Session of the Forty-seventh Legislature, as amended by Chapter 298, Acts of the Regular Session of the Forty-eighth Legislature, be and the same is hereby amended to read hereafter as follows:

"Section 13. (a) In all refund claims filed under this section the burden shall be on the claimant to furnish sufficient and satisfactory proof to the Comptroller of the claimant's compliance with all provisions of this Article; otherwise, the refund claim shall be denied.

"(b) Any person, (except as hereinafter provided) who shall use motor fuel for the purpose of operating or propelling any stationary gasoline engine, motor boat, aircraft, or tractor used for agricultural purposes, or for any other purpose except in a motor vehicle operated or intended to be operated upon the public highway of this State, and who shall have paid the tax imposed upon said motor fuel by this Article, either directly or indirectly, shall, when such person has fully complied with all provisions of this Article and the rules and regulations promulgated by the Comptroller, be entitled to reimbursement of the tax paid by him less one per cent

(1%) allowed distributors for collecting and remitting the tax and complying with other provisions of the law. Provided, however, no tax refund shall be paid to any person on motor fuel used in any construction or maintenance work which is paid for from any State funds to which motor fuel tax collections are allocated or which is paid jointly from any such State funds and Federal funds, except that when such fuel is used in maintenance of way machines, or other equipment of a railroad, operated upon stationary rails or tracks, then such railroad shall be entitled to a tax refund on such fuel.

"(c) Any person desiring to sell to others, or to appropriate for his own use, refund motor fuel as defined herein, shall make separate application to the Comptroller for each separate place of business from which refund motor fuel will be sold, or appropriated for use, for a refund dealer's license to sell or appropriate such product and it shall be unlawful to issue an invoice of exemption covering the sale or appropriation of refund motor fuel without possessing a valid refund dealer's license. The Comptroller shall make such examination of each application for license and the applicant therefor as he deems necessary and if in his opinion the applicant is qualified to perform the duties required of a refund dealer and is otherwise entitled to the license applied for, a non-transferable license shall be issued by the Comptroller for the place of business named in the application. Each license so issued shall be continuous in force and effect until such time as the Comptroller shall require a renewal thereof, or until such license shall be terminated by the licensee or revoked or suspended by the Comptroller as provided by law.

"No refund of the tax paid on any motor fuel shall be granted unless such motor fuel has been purchased from, or appropriated and used by, a refund dealer holding a valid license at the time of such purchase or use, except upon motor fuel exported, lost by accident, or purchased by the United States Government for its exclusive use.

"Every refund dealer shall be required to maintain the records required of a dealer by Section 10 of this Article, and in addition each such refund dealer shall keep for a period of two years for the inspection of the Comptroller and the Attorney

General or their authorized representatives, the original copy of each invoice of exemption issued by such dealer. The license number of the refund dealer shall be inserted in the space provided on each invoice of exemption issued by him.

"The Comptroller shall have the authority and it shall be his duty to revoke or suspend the license or licenses of any refund dealer who violates or fails or refuses to comply with any provision of this Article or any rule and regulation duly promulgated by the Comptroller. In the event the Comptroller revoked or suspends a license, the said license and all unissued invoices of exemption assigned to the dealer for said license shall be surrendered by the licensee to the Comptroller forthwith.

"(d) When motor fuel is ordered or purchased for refund purposes the purchaser or recipient thereof shall state the purpose for which such motor fuel will be used or is intended to be used, and shall request an invoice of exemption which shall be made out by the selling refund dealer at the time of such delivery, or, if the motor fuel is appropriated for use by a refund dealer it shall be made out at the time the motor fuel is appropriated or set aside for refund purposes. The invoice of exemption shall state: the refund dealer's license number; the date of purchase and the date of delivery; the names and addresses of the purchaser and the selling dealer; the purpose for which such motor fuel will be used or is intended to be used; the number of gallons delivered, or appropriated for use; and any other information the Comptroller may prescribe. No refund shall be allowed unless an invoice of exemption is made out at the time of delivery, except as hereinafter provided. If it be shown by evidence sufficient and satisfactory to the Comptroller that an invoice of exemption had been duly requested by a purchaser of refund motor fuel or his agent at the time of the purchase or delivery and that its failure to be issued was through no fault of the claimant, then the Comptroller may, if he finds the motor fuel has been used for refund purposes, issue warrant in payment of the claim.

"The invoice of exemption shall be made out and executed in duplicate by the refund dealer, the duplicate of which shall be delivered to the purchaser of the motor fuel and the original shall be retained by the refund

dealer at the place of business designated on his license for the time and in the manner herein provided. Each invoice of exemption shall be signed by the refund dealer and the person who purchases the motor fuel for refund purposes or a duly authorized employee or agent of said dealer or purchaser. But if neither the purchaser of the motor fuel nor an agent is present to sign the invoice of exemption at the time of delivery, the refund dealer shall mail or deliver the duplicate invoice of exemption to the purchaser within seven (7) days after delivery of the motor fuel.

"(e) It shall be unlawful for any refund dealer, or any employee thereof, to prepare or notarize any claim for refund of tax paid on motor fuel purchased from said refund dealer, or to act in any capacity as agent or employee of any claimant for refund of tax paid on motor fuel purchased from said refund dealer by keeping his books, records, refund claim forms or other documents to be used or intended for use by said claimant in the preparation of his tax refund claim, and the Comptroller shall not approve the payment of any tax refund claim, in whole or in part, in which the claimant has permitted the seller of the motor fuel upon which tax refund is claimed, or any employee of said seller, to prepare, notarize or file his claim for tax refund, or to keep any books, records or documents used in the preparation or filing of said claim. Provided that the Comptroller may, after proper hearing as herein provided, cancel, suspend, or refuse the issuance or reinstatement of the license of any refund dealer who shall prepare or notarize, or who shall permit any employee to prepare or notarize, any claim for refund of tax paid on motor fuel purchased from said refund dealer by the claimant thereof, or who shall keep, or permit any employee to keep, any duplicate invoice of exemption for more than seven (7) days after it has been duly issued to a purchaser of refund motor fuel.

"(f) Any person entitled to file claim for tax refund under the terms of this Article shall file such claim with the Comptroller on a form prescribed by the Comptroller within six (6) months from the date the motor fuel was delivered to him, or from the date the motor fuel was lost, exported or sold to the United States Government, and no refund of tax

shall ever be made where it appears from the invoice of exemption, or from the affidavits or other evidence submitted, that the sale or delivery of the motor fuel was made more than six (6) months prior to the date the refund claim was actually received in the Comptroller's office. The refund claim, with all duplicate invoices of exemption required by law to be issued with the sale of refund motor fuel included as a part of said claim, shall be verified by affidavit of the claimant, or a duly authorized agent of the claimant, and shall show the quantity of refund motor fuel acquired and on hand at the beginning and closing dates of the period covered in the refund claim filed.

"If any claimant was not present when the refund motor fuel was used for any purpose, except in machines operated upon stationary rails or tracks, the Comptroller may require such additional affidavits as he may deem necessary to prove the correctness of the claim, from persons who were present and used or supervised the using of the refund motor fuel. The claim for tax refund shall include a statement that the information shown in each duplicate invoice of exemption attached to the tax refund claim is true and correct, and that deductions have been made from the tax refund claim for all motor fuel used on the public highway of Texas and for all motor fuel used or otherwise disposed of in any manner in which a tax refund is not authorized herein. If upon examination, and such other investigation as may be deemed necessary, the Comptroller finds that the claim filed for tax refund is just, and that the taxes claimed have actually been paid by the claimant, then he shall issue warrant due the claimant but no greater amount shall be refunded than has been paid into the State Treasury on any motor fuel, and no warrant shall be paid by the State Treasurer unless presented for payment within two years from the close of the fiscal year in which such warrant was issued, but claim for the payment of such warrant may be presented to the Legislature for appropriation to be made from which said warrant may be paid.

"If the refund motor fuel for which tax refund is claimed was used on a farm or ranch or for any agricultural purpose the claim shall show the make, model, and year of manufacture of each tractor, combine and other vehicle in which any refund

motor fuel included in the claim was used and the actual work performed, showing the different kinds of crops planted and the acreage used or set aside for each crop, during the period of the refund claim, and showing complete information of all other work performed by each such tractor, combine or other vehicle used by the claimant during the period of the claim. The claim shall likewise show the make, kind and horsepower of each stationary engine or motor in which refund motor fuel was used by the claimant and the purposes for which it was used, and if any of the motor fuel included in the claim was used other than in the operation of motors or engines, the claim shall show complete information as to the manner of use and the purpose for which the motor fuel was used. The claim shall also state the number of automobiles, trucks, pickups and other licensed vehicles operated regularly by the claimant or his employees, on or in connection with the farm, ranch or other agricultural project, and shall show the name and address of the dealer or dealers from whom taxable motor fuel was purchased for use in such licensed vehicles during the period of the claim.

"If the refund motor fuel was used in mining, quarrying, drilling, producing, exploring for minerals, or in construction, maintenance, repair work or in other functions similar to the above uses, a distribution schedule, or such other information as the Comptroller may require, shall be attached to and filed as a part of the refund claim which shall show the quantities of motor fuel delivered to and consumed in each vehicle or other unit of equipment used in such work during the period of the claim; provided, however, that no schedules shall be required to show the quantities of motor fuel used in machines operated upon stationary rails or tracks.

"If the refund motor fuel was used in aircraft or motor boats, the claim shall show the make and description of such aircraft or motor boat and the quantities of motor fuel used during the period of the refund claim.

"If the refund motor fuel was used for cleaning, or dyeing or for industrial or domestic purposes, or as converted into a product other than motor fuel by any manufacturing or blending process, the claim shall show the purpose or purposes for which the motor fuel was used and the

quantity used for each separate purpose.

"It shall be the duty of every person claiming tax refund to verify the contents of the claim filed and any such person who shall file claim for tax refund on any motor fuel which has been used to propel a motor vehicle, tractor or other conveyance upon the public highway of Texas for any purpose for which a tax refund is not authorized herein, or who shall file any duplicate invoice of exemption in a claim for tax refund on which any date, figure or other material information has been falsified or altered after said duplicate invoice of exemption has been duly issued by the refund dealer and delivered to the claimant, shall forfeit his right to the entire amount of the refund claim filed.

"(g) No tax refund shall be paid on motor fuel used in automobiles, trucks, pickups, jeeps, station wagons, buses, or similar motor vehicles designed primarily for highway travel, which travel both on and off the highway except as hereinafter provided. (a) If any such motor vehicles are used entirely for non-highway purposes except when propelled over the public highway to obtain repairs, oil changes, or similar mechanical or maintenance services, or when propelled over the public highway for other incidental purposes, or (b) if any such motor vehicles are operated exclusively during the period covered in any refund claim over prescribed courses lying between fixed terminals or bases, in which such vehicles travel the same mileage on the highway on each trip and the same mileage off the highway on each such trip, then in such cases a tax refund claim may be approved for the motor fuel used off the public highway in such vehicles, only when the claimant has kept a complete record of each trip traveled over any part of the public highway showing the date, the highway mileage traveled and the quantity of motor fuel used in each of said vehicles during the period of such travel.

"Any claimant who owns or operates more than one farm, ranch, or similar tract of land in the same vicinity, may move his farm tractors over the public highway for the purpose of transferring the base of operation of such tractors from one such farm, ranch, or other similar tract of land, to another, without measuring and deducting the refund motor fuel

used in such incidental highway travel from his claim for tax refund. Motor fuel consumed in any tractor traveling more than ten miles on the public highway during any one trip, shall not be construed to have been used for incidental purposes and shall not be subject to tax refund thereon, and motor fuel consumed in any tractor used in transporting produce, goods, wares, or other commodities or merchandise over the public highway, or consumed in any tractor used in custom work for others, or consumed in any tractor used upon the public highway for any purpose other than in moving said tractor from its base of operation on one farm, ranch, or other similar tract of land, to another within the limitations described hereinabove, shall be deducted, in the full amount so used, from any claim for tax refund filed by the user of said motor fuel.

"A claimant may account for any part of refund motor fuel used upon the public highway, and not eligible for tax refund, by one of the following methods: (1) In motor vehicles which operate exclusively off the public highway except for incidental highway travel as described above, a claimant may drain all refund motor fuel from the fuel tank of any such motor vehicle, tractor or other conveyance before it moves upon the public highway, and then refill it with accurately measured motor fuel, which shall be deducted from the refund motor fuel set up in the claim if said fuel tank is refilled with refund motor fuel, or (2) claimant may, by accurately measuring the mileage any such vehicle, tractor or other conveyance travels upon the public highway, deduct from the refund motor fuel set up in the claim, an amount equal to one-fourth ($\frac{1}{4}$) of a gallon for each mile or fraction of a mile any such motor vehicle, tractor or other conveyance travels on the public highway during the period of the claim, or (3) the Comptroller may prescribe regulations to permit any claimant who operates motor vehicles or other conveyance exclusively over prescribed courses lying between fixed terminals or bases in which the vehicles travel the same mileage on the public highway on each trip and the same mileage off the highway on each such trip, to keep a record of the total miles traveled and the total quantity of accurately measured motor fuel consumed by each such vehicle during the period of the claim,

from which the claimant may, for tax refund purposes, be permitted to calculate and determine the quantities used off the highway upon a basis of the average miles per gallon traveled by each such vehicle, or (4) if claimant uses any part of refund motor fuel purchased on invoice of exemption in motor vehicles which operate regularly on the public highway in which no part of the motor fuel used is eligible for tax refund, he shall keep a complete record showing the date of each separate use or withdrawal for use, the make and description of the vehicle in which used, and the quantity so used, as measured through any type measuring device or standard measuring container acceptable to the Comptroller, and the quantity so used shall be deducted from the refund motor fuel set up in the claim filed by said claimant, or the Comptroller may in his discretion permit any claimant who has kept proper record to deduct from the refund motor fuel set up in his claim, a quantity equal to the true capacity of the fuel tank of the vehicle using any part of such refund motor fuel on the highway, each time such fuel tank is filled or serviced with refund motor fuel.

"The records prescribed hereinabove shall be kept for a period of six (6) months from the date any claim, to which such records are pertinent, is filed in the Comptroller's office, and no tax refund shall ever be paid in whole or in part when a part of the motor fuel purchased or any invoice of exemption contained in the claim has been used to operate a motor vehicle, tractor or other conveyance of any kind or description upon any public highway for which a tax refund is not authorized herein, unless the claimant has kept for the time and in the manner herein provided a complete record of all such uses for which no tax refund is authorized.

"(h) Any person who shall export, or lose by fire or other accident motor fuel in any quantity of one hundred (100) gallons or more upon which the tax imposed herein has been paid, or who shall sell motor fuel upon which the tax has been paid in any quantity to the United States Government, for the exclusive use of said Government, may file claim for refund of the net tax paid to the State in the manner herein provided, or as the Comptroller may direct. Provided, that any bonded dis-

tributor holding a valid distributor's permit who establishes proof sufficient and satisfactory to the Comptroller of such export, loss by accident, or sale to the United States Government, may take credit for the net amount of the tax paid to the State on any subsequent monthly report and tax payment made to the Comptroller within six (6) months from the date of such exportation, loss or sale.

"(i) The right to receive a tax refund under the provisions of this section shall not be assignable except as hereinafter provided. Any person residing or maintaining a place of business outside of the State of Texas who shall purchase motor fuel in any quantity of not less than one hundred (100) gallons and shall export the entire quantity so purchased out of Texas forthwith, may assign his right to claim tax refund to the licensed distributor from whom such motor fuel was purchased, or to any licensed distributor who has paid the tax on such motor fuel either directly or through another licensed and bonded distributor in Texas. When such distributor has secured the proof of export required by the Comptroller, he may file claim for refund of the tax paid on the motor fuel so exported, or, such distributor may take credit for an amount equal to said tax refund on any monthly report and tax payment filed with the Comptroller within six (6) months from the date the motor fuel was exported.

"(j) For the purpose of enabling the Comptroller, and his authorized representatives, to ascertain whether or not refund motor fuel has been or is being used for the purposes for which it was purchased, they shall have the right to inspect the premises and the storage thereon where any motor fuel purchased on an invoice of exemption is stored or used and to examine any books and records kept by such purchaser, pertaining to such motor fuel, and it shall be a violation of the law for any person who has purchased or received motor fuel upon which an invoice of exemption has been issued to refuse permission to make such inspection or examination. It is further provided that the refusal of any such person to permit the inspection and examination described hereinabove shall constitute a waiver of all right to receive a tax refund on any claim under investigation.

"(k) Any person who violates or

fails to comply with any provision of this Section, or any rule and regulation duly promulgated by the Comptroller for the enforcement of the provisions of this Section, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200). Provided however, that the penalties prescribed above shall not apply to offenses punishable under Section 27 of this Article, but the said Section 27 shall apply and control over such offenses. In addition to all other penalties prescribed in this Article, it is herein provided that a conviction for a violation of any provision of this Section of said Article shall, for the first offense, forfeit the right of said person to receive a tax refund for a period of six (6) months from the date of said conviction, and for each subsequent offense, shall forfeit the right of said person to receive a tax refund for a period of one (1) year from the date of said conviction.

"(1) Concurrently with the issuance of a refund dealer's license the Comptroller shall issue and charge to the account of the licensee, a book or books of invoices of exemption which invoices shall be printed in duplicate sets and serially numbered. The Comptroller shall keep a record of the number of books and their serial numbers issued to each refund dealer who shall be liable for a penalty in the amount of five dollars (\$5) for each book of invoices of exemption received by him for which he can not properly account as hereinafter provided. Whenever a representative of the Comptroller audits the motor fuel records of a refund dealer, or whenever a refund dealer places a reorder for a book or books of invoices of exemption, such dealer shall prepare a written record showing the serial numbers of all books not previously accounted for and if such record does not account for each book previously issued to said refund dealer which has not been previously accounted for, the refund dealer shall be given thirty (30) days notice in writing to produce any missing book or to show that it has been used to cover sales of refund motor fuel made by said refund dealer. If the missing book or books are not accounted for within thirty (30) days from the date of said notice the refund dealer shall forfeit to the State of Texas as a penalty the sum of five dollars (\$5)

for each book unaccounted for, which shall be paid to the Comptroller and allocated to the same funds to which the motor fuel taxes collected hereunder are apportioned. No further books of invoices of exemption shall be issued to any refund dealer who has incurred the penalty described hereinabove until said penalty has been paid. Any invoices of exemption which become mutilated or unusable shall be returned to the Comptroller by the refund dealer for credit to his account. The books of invoices of exemption shall not be transferable or assignable by such refund dealer unless such transfer or assignment is authorized by the Comptroller.

"If any duplicate invoice of exemption issued to a purchaser is lost or destroyed, said purchaser may make application to the Comptroller for forms to be issued and used in lieu of each lost duplicate.

"The invoices of exemption bound in book form shall be furnished by the State of Texas, free of cost, to the refund dealer.

"(m) All the moneys paid into the Treasury under the provisions of this Article, except the filing fees provided herein, shall be set aside in a special fund to be known as the Highway Motor Fuel Tax Fund and no part of said fund shall be credited to the Available School Fund until a report is made by the Comptroller to the Treasurer, showing the total maximum amount of refunds that may be required to be paid by the State out of said funds. The Comptroller shall on the 25th day of each month, or as soon thereafter as is possible, compute and ascertain the maximum amount of funds that may be due by the State on sale of motor fuel during the preceding month, upon which a refund may be due, and shall certify to the Treasurer the maximum amount, and the Treasurer shall reserve said amount each month out of which to pay refunds, and shall not distribute that part of said fund until the expiration of the time in which a refund can be made of said fund, but as soon as said report has been made by the Comptroller and the maximum amount of refunds determined, he shall deduct said maximum amount from the total taxes paid for such month, and apply the remainder of such as provided by law. If the claimant has lost or loses, or for any reason failed or fails to receive warrant after warrant was or has been issued by the Comptroller,

and upon satisfactory proof of such, the Comptroller may issue claimant duplicate warrant as provided for in Article 4365, Revised Civil Statutes of Texas of 1925.

"(n) So much of said fund is hereby appropriated and set aside as may be necessary to pay the refunds provided for herein, and if a specific amount be necessary then there is hereby appropriated and set aside for said purpose the sum of Two Hundred Thousand Dollars (\$200,000), or so much thereof as may be necessary. In no event shall any refund be made to any person in excess of the actual amount paid by such person, and the one (1) per cent deducted originally by the distributor upon the first sale or distribution of the motor fuel shall be deducted in computing the refund. The Comptroller shall deduct fifty (50) cents from all such refunds as a filing fee, which fee shall be deducted from the warrant issued in payment of such refund, which said filing fee shall be set aside for the use and benefit of the Comptroller in the administration and enforcement of this Article, as well as for the payment of expenses in furnishing the form of invoice of exemption and other forms provided for herein, and the same is hereby appropriated for such purpose. All such filing fees shall be paid into the State Treasury and shall be paid out on vouchers and warrants in such manner as may be prescribed by law."

Section 5. That Section 14, Article XVII of Chapter 184, Acts of the Regular Session of the Forty-seventh Legislature, as amended by Chapter 298, Acts of the Regular Session of the Forty-eighth Legislature, be and the same is hereby amended to read hereafter as follows:

"Section 14. (a) There is hereby levied and imposed an excise tax of four (4) cents per gallon on all liquefied gas used, or delivered into a fuel tank for use, in propelling a motor vehicle upon the public highway of Texas, and six (6) cents per gallon on all other liquid fuels used, or delivered into a fuel tank for use, in propelling a motor vehicle upon the public highway of Texas, and every user-dealer who sells and delivers liquefied gas or other liquid fuels into a fuel tank or tanks used to supply fuel for the propulsion of any licensed motor vehicle or any other motor vehicle being operated or intended to be operated upon the public highway of

this State shall, at the time of such sale and delivery, collect the said tax at the rate or rates imposed from the purchaser or recipient of said special fuels, in addition to his selling price, and shall report and pay to the State of Texas the tax so collected at the time and in the manner as herein provided. Every user-dealer shall likewise report and pay to the State of Texas, the tax at the rate or rates imposed hereinabove on each gallon of liquefied gas or other liquid fuels, hereinafter referred to as special fuels, acquired in any manner tax free by said user-dealer and thereafter used, or delivered into a fuel tank for use, in propelling a motor vehicle upon the public highway of Texas.

"It is the intent and object of this section that the tax or taxes imposed herein on special fuels, as that term is defined, shall be paid by the persons using or consuming said special fuels to generate power for the propulsion of motor vehicles upon the public highways of this State, and the granting of a permit to user-dealers to collect said excise taxes for and in behalf of the State of Texas shall be deemed to establish a fiduciary relationship. Provided however, that no tax shall be imposed upon the sale or delivery of special fuels to the United States Government for its exclusive use.

"Provided that no tax shall be paid on special fuels brought into Texas in quantities of not more than thirty gallons in a fuel tank connected to and feeding the carburetor of a motor vehicle entering the State; if said quantities exceed thirty gallons the tax and penalties shall apply to the full amount being used on the Texas highway. Provided, further, that a licensed user-dealer may deduct from his report and tax remittance the tax on one per cent of the taxable gallonage to cover the expenses of collecting the taxes, keeping records, making reports and furnishing bond.

"(b) From and after the effective date of this Article as hereby amended, all persons desiring to sell and deliver special fuels in this State into the fuel tank of any motor vehicle for use in the propulsion thereof upon or over the public highway of Texas, and every person desiring to use special fuels acquired tax free in any manner to propel any motor vehicle upon the public highway of Texas shall

file application with the Comptroller for a user-dealer's permit to make such taxable sales or uses of special fuels, said application to be on a form prescribed by the Comptroller setting forth the name under which such user-dealer transacts or intends to transact business, and showing such other information as the Comptroller may require. Provided however, a distributor of motor fuel duly licensed in Texas may file a joint application for a permit to sell, distribute or use motor fuel and special fuels under one permit and one bond.

"(c) Concurrently with the filing of said application the user-dealer shall file with the Comptroller a bond in an amount to be set by the Comptroller at not less than one hundred dollars (\$100.00) nor more than the maximum fixed herein for a motor fuel distributor's bond. The bond shall be executed by a surety company authorized to write bonds in this State, or the equivalent in cash, or securities of any class acceptable for motor fuel distributors bonds, may be filed. The said bond shall be posted to guarantee the payment to the State of Texas, of the taxes required herein to be collected upon the sale and delivery and paid upon the use of special fuels by a user-dealer, together with all penalties which may become due for failure to remit said taxes to the Comptroller within the time prescribed by law, and shall be conditioned upon the full compliance with all other provisions of this Article affecting a user-dealer. It is expressly provided however, that any distributor of motor fuel who also sells or uses special fuels as a user-dealer may, in lieu of furnishing the user-dealer's bond, file a joint or single bond conditioned upon the full, complete and faithful performance of all the terms, conditions and requirements imposed upon a distributor and a user-dealer by this Article, including the remittance to the State of Texas of all taxes collected upon the sales and all taxes due upon the use of motor fuel and special fuels, said bond to be on a form and containing such information as the Comptroller may prescribe. Such bond or bonds shall expire on December 31st of each year but may be continued in force for the succeeding twelve months or may be increased or reduced by renewal certificate issued by the surety thereon.

"Any surety on a bond furnished

under the provisions of this Section may obtain release and discharge from such bond and all liability thereunder to the State within thirty days from the date such surety files written request for such release with the Comptroller, but such release shall not operate to release the surety from any liability already accrued, or which shall accrue before the expiration of said thirty day period. The user-dealer who furnished such bond shall be promptly notified to furnish a new bond and if a new and acceptable bond is not furnished within fifteen days from date of said notice the user-dealer's permit shall be canceled. Provided further, suit may be filed against any surety or sureties on any bond furnished by a user-dealer, without first resorting to or exhausting the assets of such user-dealer or without making said user-dealer, as principal obligor in said bond, a party to said suit.

"(d) The application in proper form and satisfactory bond having been filed and accepted, the Comptroller shall issue the applicant a non-assignable consecutively numbered permit authorizing the sale and delivery of special fuels into the fuel tanks of motor vehicles operated or to be operated upon the public highway of Texas, and authorizing the use of such special fuels to propel motor vehicles owned or operated by a user-dealer upon the public highway, said permit to be effective from the date it is issued for the balance of the calendar year ending December 31st of each year. A separate certificate of the permit shall be issued for each additional place of business operated by a user-dealer which shall be kept in the place of business for which it is issued. A bond shall be filed and a permit obtained for each calendar year beginning January 1st, and ending December 31, or for any part thereof in which the applicant intends to sell or use special fuels for the taxable purposes described herein, and no person shall sell or use special fuels for any purpose which requires the tax to be paid upon such sale or use, unless he holds a valid permit from the Comptroller authorizing such taxable sales or uses for the calendar year named in the permit.

"The permit shall be revocable for the violation of or the failure to comply with any provision of this Article

appertaining to the sale or use of special fuels for taxable purposes, or any rule and regulation duly promulgated by the Comptroller for the enforcement of such provisions of law. The revocation, suspension or refusal to issue or reinstate any such permit shall be made in the manner and subject to the terms and conditions provided in Section 16 of this Article and the said Section 16 is hereby made applicable to any such action taken by the Comptroller.

"(e) In addition to other records required in this Article every user-dealer shall keep in Texas for a period of two (2) years, for the inspection at all times by the Comptroller and Attorney General, or their authorized representatives, a well-bound book record which shall provide complete information of all liquefied gas and other liquid fuels handled by said user-dealer at each place of business where special fuels are sold, delivered or used, for taxable purposes, including inventories of each product on hand at each such place of business on the first of each month and showing the gallons of each product purchased or otherwise acquired, the gallons of each product delivered daily for taxable purposes, the gallons of each product used daily for taxable purposes and the gallons of each product sold or otherwise disposed of daily for any purpose or purposes not subject to the tax imposed herein. And it is expressly provided that each delivery of liquefied gas or other liquid fuels into a fuel tank for use in propelling a motor vehicle upon the public highway of Texas, regardless of the quantity delivered, shall be recorded upon a serially numbered invoice which shall be issued in not less than duplicate counterparts with the name and address of the user-dealer printed thereon, and on which spaces shall be provided wherein shall be shown the date of each such delivery, the quantity and the kind of product delivered, the state highway license number, or the make and description if not licensed, of each motor vehicle into which liquefied gas or other liquid fuels is delivered into its fuel tank for taxable use. Provided further, that the invoice shall reflect separately the tax involved in each such sale, delivery, or use of such products. One counterpart of the invoice shall be kept by the user-dealer for the time hereinabove prescribed

and the other counterpart thereof shall be delivered to the purchaser or user of the special fuels who shall carry it with him until the fuel is consumed. If the special fuels are used by the user-dealer in which no sale is involved, a notation shall be recorded on the invoice showing such fact or information.

"If any user-dealer shall fail to keep the records and make the reports as required herein, the Comptroller is hereby authorized to fix or establish the amount of taxes, penalties and interest due the State of Texas from any records or information available to him and if the tax claim as developed from such procedure is not paid, such claim, and any audit made by the Comptroller's representatives, shall be admissible in evidence in any suit or judicial proceedings filed by the Attorney General, and shall be prima facie evidence of the correctness of said claim or audit; provided, however, that the prima facie presumption of the correctness of said claim may be overcome, upon the trial, by evidence adduced by said user-dealer.

"(f) Every user-dealer who shall be required to collect the taxes levied by this section upon the sale or delivery of special fuels, or who shall be required to pay the taxes levied upon special fuels used, or delivered into a fuel tank for use, in propelling a motor vehicle upon the public highway by said user-dealer, shall upon the 25th day of each calendar month remit or pay over to the State of Texas through the Comptroller at his office in Austin, Travis County, Texas, the amount of such taxes due by said user-dealer from the sale, delivery or use of special fuels, and at the same time, such user-dealer shall make and deliver to the Comptroller a report, verified by affidavit of the user-dealer, or his representative in charge, showing the date of said report, the name and address of the user-dealer reporting, and the month which the report covers. The report shall show complete information of all liquefied gas and other liquid fuels handled during the month reported at each place of business from which special fuels are delivered into the fuel tanks of motor vehicles for use on the public highway, including the gallons of each product purchased or otherwise acquired, the gallons of each product sold or delivered for taxable purposes, the gallons of each product used for taxable pur-

poses, and the gallons of each product sold or otherwise disposed of for any purpose or purposes not subject to the tax imposed herein. Provided that when a qualified user-dealer has not sold, delivered or used any special fuels for taxable purposes during any month or part thereof, he shall nevertheless file with the Comptroller the report required herein setting forth such fact or information. Every user-dealer, at the time of making said report, shall attach legal tender thereto or make proper form of money order or exchange payable to the State Treasurer in the amount of tax due and required to be paid for the period covered by the report.

"Provided further that if any user-dealer is also a licensed distributor of motor fuel, he may include the information required herein to be reported for special fuels in his monthly distributor's report.

"Every user-dealer shall be prima facie presumed to have sold, delivered or used for taxable purposes all special fuels shown by a duly verified audit by the Comptroller, or any representative thereof, to have been delivered to him at each place of business from where such fuels are sold, delivered or used for taxable purposes, and not accounted for. When it shall appear that a user-dealer has erroneously reported and remitted or paid more taxes than were due the State of Texas upon any special fuels during any taxpaying period, either on account of a mistake of fact or law, the Comptroller may credit the total amount of taxes due by such user-dealer for the current period with the total amount of taxes so erroneously paid; such credit shall be allowed before any penalties or interest shall be applicable.

"(g) All taxes, penalties, interest, and costs due by any user-dealer to the State under the provisions of this Article, and all taxes collected and required to be paid by said user-dealer to the State shall be secured by a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, and regardless of the time such liens originated, upon all of the property of any user-dealer devoted to or used in his business as a user-dealer, which property shall include all plants, storage tanks, warehouse, office buildings and equipment, tank trucks or other vehicles, stocks on hand of every kind and character used or usable in such business, and

the proceeds from the sale of such stocks and materials, including cash on hand and in banks, accounts and notes receivable and all other property of every kind and character whatsoever and wherever situated devoted to such use and including each tract of land on which such business and the property used in carrying on such business is located.

"(h) As a means of enforcing the provisions of this Article, the Comptroller and his authorized representatives, and any highway patrolman, sheriff, constable or other peace officer, shall have the right to stop any motor vehicle which appears to be transporting special fuels, or which appears to be operating with any special fuels, for the purpose of examining the invoice or manifest required to be carried with such products and for the purpose of sampling and examining the product and making any other investigation necessary to determine whether or not the tax has been paid or a tax liability has been incurred on the product being transported or used.

"(i) Any person who owns or operates a tractor, combine, or similar agricultural vehicle propelled with special fuels which is capable of being used on the public highways of this state, and who is not required to register as a user-dealer under the provisions of this Article shall register each and every such vehicle with the Comptroller, on forms furnished by the Comptroller and containing such information as the Comptroller may prescribe, and shall on such form state under oath whether he intends to use any such vehicle on the public highway of this State. In the event any such registrant, except as hereinafter provided, uses any such vehicle on the public highway of this State, he shall make application and qualify as a user-dealer as provided in Subsection (b) above. Any such registrant shall be permitted to move any such registered vehicle over the public highway for the purpose of transferring its base of operation from one farm, ranch, or other similar tract of land owned or operated by said person to another, without qualifying as a user-dealer and paying the tax on the special fuels used in such incidental travel on the highway. Special fuels consumed in any such tractor or vehicle traveling more than ten (10) miles on the public highway during any one trip shall not be construed to have been used

for incidental purposes and the user thereof shall be required to qualify as a user-dealer and report and pay the tax on the special fuels used on the highway on such trip. Provided, further, that special fuels consumed in any vehicle which has not been registered with the Comptroller as above provided or special fuels consumed in any vehicle used in transporting goods, wares, merchandise or other commodities over the public highway or consumed in vehicles used in custom work for others, or used upon the public highway for any purpose other than in moving said vehicle from its base of operation on one farm, ranch or similar tract of land to another within the limitations prescribed hereinabove shall be subject to the taxes imposed herein, and the user thereof shall be required to furnish bond and obtain a User-dealer's Permit before using special fuels for such taxable purposes.

Section 6. That Section 18, Article XVII of Chapter 184, Acts of the Regular Session of the Forty-seventh Legislature, be and the same is hereby amended to read hereafter as follows:

"Section 18. If any person affected by the Article (a) shall fail to pay to the State of Texas any tax due and owing under the provisions of this Article, or (b) shall fail to keep for the period of time provided herein any books or records required, or (c) shall make false entry or fail to make entry in the books and records required to be kept, or (d) shall mutilate, destroy, secrete, or remove from this State, any such books or records, or (e) shall refuse to permit the Comptroller, the Attorney General, or their authorized representatives to inspect and examine any books or records, required to be kept, or any other pertinent books or records, incident to the conduct of his business that may be kept, or (f) shall make, deliver to, and file with the Comptroller a false or incomplete return or report, or (g) shall refuse to permit the Comptroller, or his authorized representatives, to inspect any premises where motor fuel, crude petroleum, natural gas, or any derivative or condensate thereof are produced, made, prepared, stored, transported, sold, or offered for sale or exchange, or (h) shall refuse permission to said persons to examine, gauge, or measure the contents of any storage tanks, vehicle tanks,

pumps, or other containers, or to take samples therefrom, or (i) shall refuse permission to said persons to examine and audit any books, records, and gauge reports kept in connection with or incidental to said equipment, or (j) shall refuse to stop and permit the inspection and examination of any motor vehicle transporting motor fuel or transporting or using special fuels, upon demand of any person authorized to inspect the same, or (k) shall fail to make and deliver to the Comptroller any return or report required herein to be made and filed, or (l) shall forge or falsify any invoice of exemption herein provided, or (m) shall make any false statement in any claim for refund of motor fuel taxes as to any material fact required to be given, or (n) shall use special fuels for the propulsion of a motor vehicle upon the public highway without then and there possessing an invoice showing that the tax on the use of said products has been paid, or accounted for by a licensed user-dealer, or if any such person (o) shall fail or refuse to comply with any provision of this Article or shall violate the same or (p) shall fail or refuse to comply with any rule and regulation promulgated hereunder by the Comptroller, or violate the same, he shall forfeit to the State of Texas as a penalty the sum of not less than Twenty-five Dollars (\$25), nor more than Five Hundred Dollars (\$500). Each day's violation shall constitute a separate offense and incur another penalty, which, if not paid shall be recovered in a suit by the Attorney General in a Court of competent jurisdiction in Travis County, Texas, or any other court of competent jurisdiction having venue under existing venue Statutes. Provided that in addition to the penalties shown, if any distributor or user-dealer does not make remittance for any taxes collected, or pay any taxes due the State of Texas by said distributor or user-dealer, within the time prescribed by law, said distributor or user-dealer shall forfeit two (2) per cent of the amount due; and if said taxes are not remitted or paid within ten (10) days from the date the Comptroller gives such distributor or user-dealer notice of the amount due in writing directed to the address shown in the application for permit filed by said distributor or user-dealer, an additional eight (8) per cent shall be forfeited. All past

due taxes and penalties shall draw interest at the rate of six (6) per cent per annum.

"The venue of any suit, injunction, or other proceeding at law or in equity available for the establishment or collection of any claim for delinquent taxes, penalties, or interest accruing hereunder and the enforcement of the terms and provisions of this Article, shall be in a court of competent jurisdiction in Travis County, Texas, or in any other court having venue under existing venue Statutes.

"Provided further, that before any restraining order or injunction shall be granted against the Comptroller, or his authorized representatives, to restrain or enjoin the collection of any taxes, penalties, and interest imposed by this Article, the applicant therefor shall pay into the suspense account of the State Treasurer all such taxes, penalties, and interest showing to be due and owing to the State by any audit made by the Comptroller, or his duly authorized representative, when said audit has been certified to by the Comptroller or his Chief Clerk, and has been signed under oath by said authorized representative as having been made from the books and records of said applicant, whether or not required to be kept under the provision of this Article, or from the books and records of any person from whom such applicant has purchased, received, delivered, or sold motor fuel or special fuels, or from the books and records of any transportation agency, which has transported such products to or from said applicant. Provided, however, that said applicant may, in lieu of paying said taxes, penalties, and interest into the suspense account of the State Treasurer, file with said Treasurer a good and sufficient surety bond in the amount and form and under the conditions provided in Section 1, Chapter 310, Acts of the Regular Session of the Forty-fifth Legislature, and the provisions of said Section 1, Chapter 310, are hereby made applicable to any suit filed to restrain or enjoin the collection of any such taxes, penalties, and interest imposed by this Article. Any proceedings to enjoin the collection of such taxes, penalties, and interest, or the enforcement of any provision of this Article shall be in a court of competent jurisdiction in Travis County, Texas."

Section 7. That Section 22, Article

XVII of Chapter 184, Acts of the Regular Session of the Forty-seventh Legislature, be and the same is hereby amended to read hereafter as follows:

"Section 22. (a) Authority is hereby conferred upon the Comptroller to waive any proceedings for the forfeiture of any of the property seized under the provisions of this Article, or any part thereof, provided that the offender shall pay into the State Treasury through the Comptroller a penalty equal to twice the amount of the tax due on the motor fuel plus all other costs in connection with such seizure. A record of all such settlements and waivers of forfeiture shall be kept by the Comptroller and shall be open to public inspection.

"(b) Provided further, that if the Comptroller finds from examination of records or from other investigation that motor fuel or special fuels have been sold, delivered, or used for any taxable purpose without the taxes levied by this Article having been paid to the State of Texas, or accounted for by a licensed distributor or user-dealer, he shall have the power to require the person making such taxable sale, delivery or use of such motor fuel or special fuels to pay into the State Treasury through the Comptroller the taxes due and a penalty equal to the amount of such taxes due. If any person who has made any such taxable sale or taxable use is unable to furnish sufficient evidence to the Comptroller that said taxes have been paid, or accounted for by a licensed distributor or a user-dealer, the prima facie presumption shall arise that such motor fuel or special fuels was sold, delivered or used without said taxes having been paid."

Section 8. That Sections 26 and 27, Article XVII, Chapter 184, Acts of the Regular Session of the 47th Legislature, as amended by Chapter 298, Acts of the Regular Session of the 48th Legislature, be and the same are hereby amended to read hereafter as follows:

"Section 26. If any person (a) shall refuse to permit the Comptroller, the Attorney General, or their authorized representatives, to inspect, examine and audit any books and records required to be kept by a distributor, user-dealer, refund dealer, or dealer, or (b) shall refuse to permit said persons to inspect and examine any plant, equipment, materials, or premises where motor fuel or special fuels

are produced, processed, stored, sold, delivered or used, or (c) shall refuse to permit said persons to measure or gauge the contents of all storage tanks, pumps or containers on said premises, or take samples therefrom, or (d) shall conceal any motor fuel or special fuels for the purpose of violating any provision of this Article, or (e) shall transport motor fuel, or special fuels in a motor vehicle with pipe or tube connection from the cargo tank or container to the carburetor of said motor vehicle, or (f) shall use special fuels to propel a motor vehicle upon the public highway without the tax having been paid to the State of Texas, or accounted for by a user-dealer, or (g) shall sell or distribute motor fuel or special fuels from a fuel tank or auxiliary fuel tank with a direct or indirect connection to the carburetor of a motor vehicle, or (h) if any dealer shall fail or refuse to keep in Texas for the period of time required by law, any books or records required to be kept by said person, or (i) if any dealer, or the agent or employee of any dealer, shall knowingly make any false entry or fail to make entry in the books and records required to be kept by a dealer, or (j) if any refund dealer shall refuse to surrender his refund dealer's license to the Comptroller upon suspension or cancellation of said license, or (k) shall refuse to surrender to the Comptroller all unissued invoices of exemption upon the suspension or cancellation of said license, or (l) if any user-dealer shall deliver special fuels into the fuel tank of a motor vehicle for the propulsion of said motor vehicle upon the public highway without then and there holding a valid user-dealer's permit, or if any person (m) shall fail or refuse to comply with any provision of this Article, or shall violate the same, or (n) shall fail or refuse to comply with any rule and regulation duly promulgated by the Comptroller, or shall violate the same, said person or persons shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25) nor more than Two Hundred Dollars (\$200).

"Section 27. (a) Whoever shall knowingly transport in any manner any motor fuel, casing-head gasoline, drip gasoline, natural gasoline, absorption gasoline, or special fuels under a false manifest, or (b) whoever shall knowingly transport any of the

foregoing named commodities in any quantity, for which a manifest is required to be carried, without then and there possessing or exhibiting upon demand by an authorized officer, a manifest, containing all the information required to be shown thereon, or (c) while transporting any of the foregoing named commodities, shall wilfully refuse to stop the motor vehicle he is operating when called upon to do so by a person authorized hereunder to stop said motor vehicle, or (d) shall refuse to surrender his motor vehicle and cargo for impoundment when ordered to do so by a person authorized hereunder to impound said motor vehicle and cargo, or (e) whoever shall make a first sale, distribution, or use of motor fuel, upon which a tax is required to be paid by law, without then and there holding a valid distributor's permit issued by the Comptroller, or (f) whoever as a distributor shall fail or refuse to make and deliver to the Comptroller a report containing the information required by law to be made and delivered to said Comptroller, or (g) whoever as a user-dealer shall fail or refuse to make and deliver to the Comptroller a report containing the information required by law to be made and delivered to said Comptroller by a distributor or by a user-dealer, or (i) whoever as a distributor shall fail or refuse to keep in Texas for the period of time required by law any books and records required to be kept by a distributor, or (j) whoever as a user-dealer shall fail or refuse to keep in Texas for the period of time required by law any books and records required to be kept by a user-dealer, or (k) whoever shall knowingly make any false entry or shall wilfully fail to make entry in any books and records required to be kept by a distributor or by a user-dealer, or (l) whoever shall wilfully forge or falsify any invoice of exemption prescribed by law, or (m) whoever shall wilfully and knowingly make any false statement in any claim for a tax refund delivered to or filed with the Comptroller, shall be guilty of a felony and upon conviction, shall be punished by confinement in the State penitentiary for not more than five (5) years or by confinement in the county jail for not

less than one (1) month nor more than six (6) months, or by a fine of not less than One Hundred Dollars (\$100) nor more than Five Thousand Dollars (\$5,000), or by both such fine and imprisonment. In addition to the foregoing penalties, it is herein provided that a felony conviction for any of the above named offenses shall automatically forfeit the right of said convicted person to obtain a permit as a distributor of motor fuel, or as a user-dealer in special fuels, or as a refund dealer, for a period of two years from the date of such conviction.

"Provided, that if any penalties prescribed elsewhere in this Article shall overlap as to offenses which are also punishable under Section 27 of this Article, then the penalties prescribed in the said Section 27 shall apply and control over all such penalties. Venue of prosecution under Section 27 shall be in Travis County, Texas, or in the county in which the offense occurred."

Section 9. All laws or parts of laws that conflict herewith are, insofar as such confliction exists, hereby repealed and this Act shall prevail over any conflicting provision of law. Provided, however, that all taxes, penalties and interest accruing to the State of Texas before the effective date of this Act by virtue of the amended or re-enacted provisions of Chapter 184, Article XVII, Acts of the Regular Session of the Forty-seventh Legislature, as amended by Chapter 298, Acts of the Regular Session of the Forty-eighth Legislature, and all taxes, penalties and interest accruing under the provisions of pre-existing gasoline or motor fuel tax laws, prior to the effective date of this Act, shall be and remain valid and binding obligations due the State of Texas, and such taxes, penalties and interest are hereby declared to be legal and valid obligations to the State, and all liens and other obligations created and all bonds executed to secure their payment under the terms of said amended or re-enacted Act are hereby declared to be and shall remain in full force and effect. It is further provided, that no offense committed and no fine, forfeiture, or penalty incurred under such above amended or re-enacted Acts before the effective date of this Act, shall be affected by the amendment or re-enactment of any such laws, but the punishment of such offense and recovery of such fines and forfeitures shall take place

as if the law amended or re-enacted had remained in force.

Section 10. If any section, paragraph, sentence, clause, phrase or word of this Act, or the application thereof to any person or circumstances, is declared to be invalid, it shall not affect any of the remaining provisions of said Act, and the Legislature hereby declares it would have passed said remaining provisions without the invalid provisions, and to this end the provisions of this Act are declared to be severable.

SECTION XXIII

Section 1. The provisions of Texas Revised Civil Statutes (1925), Articles 10, 11, 12, 14, 22, and 23 and Texas Laws, 1947, Chapter 359, on the interpretation of Statutes shall apply specifically to this SECTION. In addition to these standard definitions, in this SECTION, unless the context otherwise requires:

(a) "Gas" means natural and casing-head gas or other gas taken from the earth or waters, regardless of whether produced from a gas well or from a well also productive of oil, distillate, condensate or other product.

(b) "Casing-head gas" means any gas or vapor indigenous to an oil stratum and produced from such stratum with oil.

(c) "Gathering gas" means the first taking or the first retaining of possession of gas produced in Texas for transmission whether through a pipe line, either common carrier or private, or otherwise after severance of such gas, and after the passage of such gas through any separator, drip, trap, meter or other method designed to separate the oil therefrom. In the case of gas containing gasoline or liquid hydrocarbons that are removed or extracted at a plant within the State by scrubbing, absorption, compression or any other process, the term "gathering gas" means the first taking or the first retaining of possession of such gas for other processing or transmission whether through a pipe line, either common carrier or private, or otherwise after such gas has passed through the outlet of such plant.

(d) "Gatherer" means any person engaged in the gathering of gas.

(e) "Person" means and includes any person, firm, concern, receiver, trustee, executor, administrator, agent, institution, association, partnership, company, corporation, and persons acting under declarations of trust, as

well as trustees acting under declarations of trusts.

(f) "Cubic foot of gas" or "standard cubic foot of gas" shall have the definition ascribed thereto by Texas Laws, 1949, Chapter 519, Section 4, Texas Revised Civil Statutes (Vernon, 1948), Article 7047b, Section 2 (12).

Sec. 2. In addition to all other licenses and taxes levied and assessed in the State of Texas, there is hereby levied upon every person engaged in gathering gas produced in this State, an occupation tax for the privilege of engaging in such business, at the rate of $\frac{9}{20}$ of one cent per thousand (1,000) cubic feet of gas gathered.

In determining the quantity of the gas for the purposes of calculating such tax, there shall be excluded (a) gas produced and then lawfully injected into the earth of this State; (b) gas used for fuel in connection with lease or field operations; (c) gas lawfully vented or flared; and (d) gas used in the manufacturing of carbon black.

Sec. 3. The tax levied hereby shall be paid by the gatherers on the 25th day of each month on all gas gathered in the State during the next preceding thirty (30) days prior to the first day of the month in which payment is required to be made. If such payment is not made within the time above prescribed, the amount due shall become delinquent and a penalty of ten per cent (10%) of the amount of the tax shall be added and such tax and penalty shall bear interest at the rate of six per cent (6%) per annum from date due until paid.

Sec. 4. The tax imposed by this Act is a tax on the occupation of gathering gas and not on the production of gas; therefore, it shall be unlawful for any gas gatherer to require any producer to pay the tax imposed under this Act under any contract provision between the producer and the gas gatherer allowing the gatherer to deduct from sums owed the producer amounts paid by the gatherer by reason of the imposition of a tax on production.

Sec. 5. It shall be the duty of each gatherer of gas in this State to keep accurate records within this State of all gas gathered and showing also what disposition is made of same, and to make reports to the Comptroller of Public Accounts of gas gathered

upon forms prescribed by the Comptroller of Public Accounts. The Comptroller shall prescribe forms of reports to be made by such gatherers and to require that such reports be made on officially prescribed forms.

The Comptroller of Public Accounts shall have the power to prescribe such rules and regulations, and require such records and reports as may be needed to aid in the administration and enforcement of the Act.

Sec. 6. The Comptroller shall employ auditors and technical assistants for the purpose of verifying reports and investigating the affairs of gatherers to determine whether the tax is being properly reported and paid. He shall have the power to enter upon the premises of any taxpayer liable for a tax under this Act, and any other premises necessary in determining the correct tax liability, and to examine, or cause to be examined, any books, or records, of any person, subject to a tax under this Act, and to secure any other information directly or indirectly concerned in the enforcement of this Act, and to promulgate and enforce, according to law, rules and regulations pertinent to the enforcement of this Act, which shall have the full force and effect of law. Before any division or allotment of the occupation tax collected under the provisions of this Act is made, one-fifth ($\frac{1}{5}$) of one per cent (1%) of the occupation tax paid monthly as may be needed in such administration and such enforcement is hereby appropriated for such purpose.

Sec. 7. In the event any gas gatherer in this State shall become delinquent in the payment of the proper taxes herein imposed, or fails to file required reports with the Comptroller, the Attorney General by a suit in the name of the State of Texas shall have the right to enjoin such person from gathering gas until the delinquent tax is paid or said reports are filed, and the venue of any such suit for injunction is hereby fixed in the county where the offense occurs.

Sec. 8. If any person shall violate any of the provisions hereof, he shall forfeit to the State of Texas as a penalty not less than Twenty-five Dollars (\$25) for each violation and each day's violation shall constitute a separate offense. The State shall have a prior lien for all delinquent taxes, penalties, and interest on all property and equipment used by the gatherer

of gas in his business of gathering gas, and if any gatherer of gas shall fail to remit the proper taxes, penalties, and interest due, or any of them, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and the gatherer of gas shall be liable, as an additional penalty, for the reasonable expenses or the reasonable value of such services of representatives of the Comptroller, incurred in such investigation and audit; provided, that funds collected for audits and examinations shall be placed in a gas audit fund in the Treasury and shall constitute a revolving fund which may be used from time to time by the Comptroller in making such audits in addition to the general appropriation made for such purpose, and all of said funds to be placed in said gas audit fund are hereby appropriated for such purpose. The Attorney General shall file suit in the name of the State of Texas for all delinquent taxes, penalties, and other amount due, and for the enforcement of all liens under this law; and the venue of any such suit is hereby fixed in Travis County.

Sec. 9. (a) If any person liable for the payment of the tax hereby levied, or required to remit the same to the Comptroller of Public Accounts, fails or refuses to pay any tax, penalty, or interest within the time and manner provided by the Act and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claim in any judicial proceedings, any report filed in the office of the Comptroller by such gatherer or representative of said gatherer or a certified copy thereof certified to by the Comptroller showing the amount of gas gathered on which tax, penalties or interest have not been paid, or any audit made by the Comptroller or his representative from the books of said gatherer when filed and sworn to by such representative as being made from the records of said gatherer, such report or audit shall be admissible in evidence in such proceedings and shall be prima facie evidence of the contents thereof; provided, however, that the incorrectness of said report or audit may be submitted in evidence only against the party by or from whom it was made.

(b) In the event the Attorney General shall file suit of claim for taxes, provided for in the foregoing, and at-

tach or file as an exhibit any report or audit of said gatherer, and an affidavit made by the Comptroller or his representative that the taxes shown to be due by said report or audit are past due and unpaid and that all payments and credits have been allowed, then unless the party resisting the same shall file an answer in the same form and manner as required by Article 3736, Revised Civil Statutes of Texas of 1925, as amended by Chapter 239, Acts of the Regular Session of the Forty-second Legislature, said audit or report shall be taken as prima facie evidence thereof, and the proceedings of said Article are hereby made applicable to suits to collect taxes hereunder.

(c) When any contract or agreement of gathering gas changes hands, the old gas gatherer shall note on his last report that said contract, or agreement has been sold or transferred, showing the effective date of said change and the name and address of the person who will gather gas under said contract, or agreement and be responsible for the filing of reports provided for in this Act, and the new gas gatherer shall note on his first report that said contract, or agreement has been acquired, showing the effective date of said change and the name and address of the person formerly gathering gas under said contract, or agreement.

Sec. 10. All moneys derived from and collected by the State of Texas, under the provisions of this Act, less one-fifth ($1/5$) of one per cent (1%) as provided for in Section 6 hereof, shall be deposited in the State Treasury, in the proportion as follows: one-fourth ($1/4$) of the same shall go to and be placed to the credit of the Available Free School Fund; the remaining three-fourths ($3/4$) shall go to and be placed to the credit of the General Revenue Fund.

Sec. 11. In the event the tax levied by this SECTION is declared unconstitutional or invalid by a court of competent jurisdiction as to gas gathered for interstate transmission, the tax shall not be levied as to gas gathered for intrastate consumption.

SECTION XXIV

Section 1. Section 25 of Article XVII of House Bill 8, Chapter 184, Acts 47th Legislature, Regular Session, 1941 (which is compiled in Vernon's Annotated Civil Statutes of

Texas, Article 7065b, Section 25) be and the same is hereby amended to read as follows:

Section 25. Before any diversion or allocation of the motor fuel tax collected under the provisions of this Article is made, one (1) per cent of the gross amount of said tax shall be set aside in the State Treasury in a special fund, subject to the use of the Comptroller in the administration and enforcement, of the provisions of this Article, and so much of said proceeds of one (1) per cent of the motor fuel tax paid monthly as may be needed in such administration and enforcement, be and is hereby appropriated for said purpose. Any unexpended portion of said fund so specified shall, at the end of each fiscal year, revert to the respective funds in the proper proportions to which the Motor Fuel Tax Fund is allocated at the end of each fiscal year.

Each month the Comptroller of Public Accounts, shall, after making the deductions for refund purposes as provided in Section 13 of this Article, and for the enforcement of the provisions of this Article, allocate and deposit the remainder of the taxes collected under the provisions of this Article, in the proportions as follows: One-fourth ($\frac{1}{4}$) of such tax shall go to, and be placed to the credit of, the Available Free School Fund; one-half ($\frac{1}{2}$) of such tax shall go to and be placed to the credit of the State Highway Fund for the construction and maintenance of the State Road System under existing laws; and from the remaining one-fourth ($\frac{1}{4}$) of such tax the Comptroller shall: (1) place to the credit of the County and Road District Highway Fund an amount determined by the Board of County and District Road Indebtedness and certified by the Board to the Comptroller of Public Accounts prior to August 31 each year, for the fiscal year beginning September 1 each year, to be required in addition to any and all funds already on hand, for the payment by the Board of the principal, interest and sinking fund requirements for such year, on all bonds, warrants or other legal evidences of indebtedness heretofore issued by counties or defined road districts of this State, which mature on or after January 1, 1933, insofar as amounts of same were issued for and proceeds have been actually expended in the construction of roads that constituted and comprised a part

of the system of designated State highways on September 17, 1932, or which subsequent to such date and prior to January 2, 1939, have been designated a part of the System of State Highways and declared by the Board of County and District Road Indebtedness prior to January 2, 1945, to be eligible to participate in the distribution of the monies in the County and Road District Highway Fund under the provisions of existing laws; (2) for the fiscal year beginning September 1, 1951, and each fiscal year thereafter, the Comptroller shall place to the credit of the Fund known as the County and Road District Highway Fund the sum of Seven Million Three Hundred Thousand (\$7,300,000.00) Dollars, said amount to be provided on the basis of equal monthly payments, payable on the first day of each calendar month, which sum shall be allocated by the Board of County and District Road Indebtedness to all of the counties of Texas not later than September 15 of each year, through the Lateral Road Account, as provided under subsection (h) of Section 6, of Chapter 324 of the General and Special Laws of the 48th Legislature, Regular Session, 1943, as amended by Section 1, of Chapter 319, Acts of the 50th Legislature, 1947; and (3) the Comptroller shall place to the credit of the State Highway Fund the remainder of such one-fourth ($\frac{1}{4}$) of such tax, said amount to be provided on the basis of equal monthly payments, payable on the first day of each calendar month, which sum shall be used by the State Highway Department for the construction and improvement of Farm to Market Roads having the same general characteristics as the roads eligible for the construction under subsection 4b of Article XX of House Bill 8, Chapter 184, Acts of the Regular Session of the 47th Legislature, as amended.

Section 2. Section 5 (formerly Section 6), Chapter 13, Acts 1932, 42nd Legislature, 3rd Called Session, as amended by Section 1, Chapter 3, Acts 1939, 46th Legislature, as amended by Section 1, Chapter 2, Acts 1941, 47th Legislature, 1st Called Session, as amended by Section 1, Chapter 324, Acts 1943, 48th Legislature, is hereby repealed.

Section 3. All laws or parts of laws inconsistent or in conflict with the provisions of this Act are hereby repealed.

Section 4. If any section, subsection, paragraph, sentence, clause or provision of this Act shall, for any reason, be held invalid, such invalidity shall not affect any other portion of this Act but this Act shall be construed and enforced as if such invalid provisions had not been contained therein.

SECTION XXV

Except as otherwise provided herein, the revenues from the taxes levied herein shall be allocated as provided in Article XX of House Bill No. 8, Chapter 184, Acts of the 47th Legislature, 1941, and any amendments thereto. (Compiled in Vernon's Annotated Civil Statutes of Texas, Article 7083a).

SECTION XXVI

If any section, paragraph, sentence, clause, phrase or word of this Act, or the application thereof to any person or circumstances, is declared to be invalid, it shall not affect any of the remaining provisions of said Act, and the Legislature hereby declares it would have passed said remaining provisions without the invalid provisions, and to this end the provisions of this Act are declared to be severable.

SECTION XXVII

The crowded condition of the calendar creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after the first day of September, A. D. 1951.

The report was read and was adopted by the following vote:

Yeas—29

Aikin	Lock
Ashley	Martin
Bell	McDonald
Bracewell	Moffett
Bullock	Moore
Carney	Nokes
Carter	Parkhouse
Colson	Phillips
Corbin	Russell
Fuller	Shofner
Hazlewood	Strauss
Hudson	Tynan
Kelley of Hidalgo	Wagonseller
Kelly of Tarrant	Weinert
Lane	

Nays—2

Hardeman	Vick
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Motion to Place House Bill 638 on Second Reading

Senator Lane asked unanimous consent to suspend the regular order of business and that H. B. No. 638 be laid out for consideration at this time.

There was objection.

Senator Lane then moved to suspend the regular order of business and that H. B. No. 638 be laid out for consideration at this time.

The motion was lost by the following vote (not receiving two-thirds vote of the Members present):

Yeas—18

Ashley	McDonald
Bell	Moore
Bullock	Nokes
Carney	Russell
Corbin	Shofner
Hazlewood	Strauss
Kelley of Hidalgo	Tynan
Kelly of Tarrant	Vick
Lane	Wagonseller

Nays—13

Aikin	Lock
Bracewell	Martin
Carter	Moffett
Colson	Parkhouse
Fuller	Phillips
Hardeman	Weinert
Hudson	

Senate Concurrent Resolution 79

Senator Bullock offered the following resolution:

S. C. R. No. 79, Suspending the Joint Rules to consider S. B. No. 474.

Be it resolved by the Senate, the House of Representatives concurring, that the Joint Rules be suspended and they are hereby suspended to permit either House to consider Senate Bill No. 474 at any time.

The resolution was read.

On motion of Senator Bullock and by unanimous consent, the resolution was considered immediately and was adopted.

Message From the House

Hall of the House of Representatives,
Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to

inform the Senate that the House has passed the following:

H. B. No. 155, A bill to be entitled "An Act amending Sections 8, 10, 11 and 12 of Title 130, Article 8306, Texas Revised Civil Statutes, to provide maximum weekly workman's compensation benefits at 60% of the average weekly wage of employees, not to exceed \$40.00 per week; repealing all laws and parts of laws in conflict; and declaring an emergency."

S. B. No. 165, A bill to be entitled "An Act providing the time for filing bills of exception in a criminal case, and declaring an emergency."

S. B. No. 167, A bill to be entitled "An Act providing that in a criminal case where a written motion is filed and overruled, the motion, any reply thereto, the court's order thereon, the exception to such ruling, any evidence thereon, if any evidence was adduced, shall constitute a bill of exception on appeal and no formal bill of exception need be prepared; providing for statement of fact on any such motion; containing a savings clause; repealing conflicting laws, and declaring an emergency."

S. B. No. 168, A bill to be entitled "An Act amending Article 755, Code of Criminal Procedure of Texas, 1925, providing the time within which motion for new trial may be filed, may be amended and may be disposed of; containing a savings clause, and declaring an emergency."

H. C. R. No. 171, Suspending the Joint Rules to permit the consideration of House Bill No. 826 at any time.

S. B. No. 171, A bill to be entitled "An Act providing for statement of facts in a criminal proceeding; providing the form of such statement; providing how such statement shall be prepared; providing when and where, and declaring an emergency."

The House has adopted the Conference Committee Report on House bill No. 285 by a vote of 120 ayes, 11 noes.

H. C. R. No. 170, Suspending the Joint Rules to permit the House and Senate to take up and consider Senate Bill No. 474 at any time.

The House has granted the request of the Senate for the appointment of a conference committee on Senate Bill

No. 231. The following have been appointed on the part of the House: Wilson, Cheatham, Yezak, Houston, Norton.

H. B. No. 330, A bill to be entitled "An Act declaring it to be a misdemeanor for a person to keep, occupy or use, or permit to be kept, occupied or used, a place, building, room, table, establishment or apparatus for playing policy; to deliver or receive money or other valuable consideration in playing policy; to have in his possession knowingly any writing or document, number, device, slip or article used in any manner in connection with what is commonly called policy; to be the owner, agent, superintendent, janitor or caretaker of any place or room where policy playing or the sale of what are commonly called lottery policies is carried on with knowledge that the premises are so used, or after notification that the premises are so used to permit such use to continue, or aid or abet in any manner any of the acts herein prohibited; defining terms; providing criminal penalties; providing that the possession by any person other than a public officer of any writing, paper or document used in any manner in what is commonly called policy or a public or private lottery is presumptive evidence of possession thereof knowingly; providing that any person having information of the violation of this act may call upon the owner, landlord, agent, superintendent, janitor or caretaker of the premises by written notice to make application for the removal of persons so using or occupying the same and providing that if such owner, landlord, agent, superintendent, janitor or caretaker does not make such application within five (5) days or, having made such application, does not in good faith diligently prosecute it, the person giving the notice may make such application himself; providing that failure to make such application or failure to in good faith prosecute it shall be presumptive evidence of a violation of this act; providing that a final order by court having jurisdiction of forcible entry and detainer suits shall be evidence of a violation of this act by the occupant of said premises and by the person on whom such notice shall be served; providing for summary proceedings to re-

cover possession of premises used in violation of this act; repealing all laws and parts of laws in conflict herewith; providing a severability clause; and declaring an emergency."

S. C. R. No. 76, Requesting the Governor to return Senate Bill No. 453 for further consideration.

H. B. No. 147, A bill to be entitled "An Act making an additional appropriation to the State Department of Agriculture supplementing certain funds for the biennium ending August 31, 1951, from the Special Pure Bred Cottonseed Inspection Fund and out of Agricultural Field Seed Fund; providing the purpose for which such funds shall be used and expended; and declaring an emergency."

H. B. No. 815, A bill to be entitled "An Act making an emergency appropriation of five hundred dollars (\$500) out of any funds in the State Treasury, not otherwise appropriated, to be expended by the Texas State Parks Board for reconditioning and repairing the Frio State Park in Frio County, Texas."

S. B. No. 153, A bill to be entitled "An Act amending Chapter 507, Section 2, page 819, Acts of the 47th Legislature of Texas, 1941, providing that a person who is convicted of driving a motor vehicle upon a public road or highway in this state or upon any street, or alley in any incorporated city, town, or village while under the influence of intoxicating liquor and who thereafter drives a motor vehicle upon such road, highway, street or alley while so intoxicated shall be guilty of a felony; fixing a penalty, and declaring an emergency."

S. B. No. 159, A bill to be entitled "An Act amending Article 338, Code of Criminal Procedure of Texas, 1925, providing for the selection of grand jurors, and declaring an emergency."

S. B. No. 160, A bill to be entitled "An Act amending Article 333, Revised Code of Criminal Procedure of Texas, 1925, as amended by the Acts of the 50th Legislature, Chapter 83, Section 2, page 141, providing for the appointment of jury commissioners; and declaring an emergency."

S. B. No. 155, A bill to be entitled "An Act to amend Article 348, Code of Criminal Procedure of Texas, 1925,

as amended by the Acts of the 43rd Legislature of Texas, Chapter 27, page 56, and declaring an emergency."

S. B. No. 326, A bill to be entitled "An Act providing for the creation, government, operation and maintenance of fire protection districts for the conservation of natural resources and properties within the State of Texas, outside of incorporated cities, towns and villages, and declaring an emergency."

Respectfully submitted,

CLARENCE JONES,
Chief Clerk, House of Representatives.

Vote Reconsidered on House Bill 808

Senator Wagonseller asked unanimous consent to reconsider the vote by which H. B. No. 808 was finally passed.

Senator Lock raised the point of order that the motion to reconsider was out of order under Senate Rule 61 since there has been more than one Legislative day since the bill was finally passed.

The President sustained the point of order.

Senator Wagonseller then moved to suspend Senate Rule 61 and to reconsider the vote by which H. B. No. 808 was finally passed.

The motion prevailed by the following vote:

Yeas—23

Aikin	McDonald
Ashley	Moore
Bell	Nokes
Bracewell	Parkhouse
Bullock	Phillips
Carter	Russell
Corbin	Shofner
Fuller	Strauss
Hazlewood	Tynan
Kelley of Hidalgo	Vick
Kelly of Tarrant	Wagonseller
Lane	

Nays—7

Carney	Martin
Colson	Moffett
Hardeman	Weinert
Lock	

Absent

Hudson

The President laid before the Senate on its third reading and final passage the following bill:

H. B. No. 808, A bill to be entitled "An Act authorizing Texas Southern University to offer courses of instruction offered at the University of Texas and authorizing Prairie View College to offer courses which are offered at A. & M. College of Texas; and declaring an emergency."

The bill was read third time.

Senator Wagonseller offered the following amendment to the bill:

Amend H. B. 808, Section One, paragraph two (2), by inserting a semicolon instead of a period at the end of the words "four years duration," and inserting at the end of the words "four years duration" the following:

"Provided further that North Texas State College is authorized to continue its Doctor's Degree programs in music and education . . ."

The amendment was lost by the following vote:

Yeas—19

Aikin	McDonald
Ashley	Moore
Bell	Nokes
Bullock	Parkhouse
Carter	Russell
Corbin	Shofner
Fuller	Strauss
Hazlewood	Vick
Kelley of Hidalgo	Wagonseller
Kelly of Tarrant	

Nays—12

Bracewell	Lock
Carney	Martin
Colson	Moffett
Hardeman	Phillips
Hudson	Tynan
Lane	Weinert

On motion of Senator Bracewell, H. B. No. 808 was laid on the table.

Record of Vote

Senator Aikin asked to be recorded as voting "Nay" on the motion to lay H. B. No. 808 on the table.

Bills and Resolution Signed

The President signed in the presence of the Senate, after the captions had been read, the following enrolled bills and resolution:

S. B. No. 377, A bill to be entitled "An Act to amend Section 2, Section

3, Section 4, Section 5, Section 7, Section 8, Section 9, Section 10, Section 12, Section 13, and repealing Section 14 of Chapter 478, Acts of the 45th Legislature, Regular Session, so as to increase the efficiency of the Board of Architectural Examiners, repealing all laws or parts of laws in conflict, providing a savings clause and declaring an emergency."

S. B. No. 469, A bill to be entitled "An Act authorizing the Texas State Parks Boards to transfer and convey certain land in Palo Pinto County to the city of Mineral Wells; and declaring an emergency."

S. C. R. 76, Requesting the Governor to return S. B. No. 453 for further consideration.

Bills and Resolution on First Reading

The following bills and resolution received from the House were read first time and were referred to the committees indicated:

H. B. No. 330—To Committee on Criminal Jurisprudence.

H. B. No. 147—To Committee on Finance.

H. B. No. 666—To Committee on Finance.

H. B. No. 155—To Committee on State Affairs.

H. B. No. 815—To Committee on Finance.

H. B. No. 824—To Committee on Game and Fish.

H. B. No. 823—To Committee on Finance.

H. B. No. 822—To Committee on Towns and City Corporations.

H. C. R. No. 163—To Committee on State Affairs.

House Bill 219 on Third Reading

The President laid H. B. No. 219 before the Senate on its third reading and final passage.

The bill was read third time.

Senator Hardeman offered the following amendment to the bill:

Amend H. B. 219 by adding a new sentence at the end of Section 37 to read as follows:

"The Director of the Department shall prepare a budget covering operations through August 31, 1953, and submit the same for approval of The Legislative Budget Board and no warrants may be issued by the Comptroller until the same shall have been approved. Such budget shall be itemized."

The amendment was adopted by the following vote:

Yeas—23

Aikin	Lane
Ashley	Lock
Bell	Martin
Bracewell	McDonald
Bullock	Moffett
Carney	Nokes
Carter	Phillips
Fuller	Russell
Hardeman	Shofner
Hazlewood	Strauss
Hudson	Tynan
Kelly of Tarrant	

Nays—6

Corbin	Parkhouse
Kelley of Hidalgo	Vick
Moore	Wagonseller

Absent

Colson	Weinert
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Senator Martin offered the following amendment to the bill:

Amend H. B. 219 by adding a new sub-section in Section 2, to read as follows:

"Trial in the court shall be de novo, with the burden of proof upon the Department, and the substantial evidence rule shall not be invoked or apply, but the same shall be tried without regard to any prior holding of fact or law by the Department, and judgment entered only upon the evidence offered at the trial by the court. A trial by jury may be had upon proper application."

The amendment was adopted by unanimous consent.

The bill, as amended, was finally passed by the following vote:

Yeas—20

Bell	Corbin
Bracewell	Fuller
Bullock	Hazlewood
Carney	Hudson
Carter	Kelley of Hidalgo

Kelly of Tarrant	Phillips
Lane	Shofner
Moffett	Tynan
Moore	Vick
Parkhouse	Weinert

Nays—11

Aikin	McDonald
Ashley	Nokes
Colson	Russell
Hardeman	Strauss
Lock	Wagonseller
Martin	

Reports of Standing Committees

By unanimous consent the following committee reports were submitted at this time.

Senator Carney submitted the following reports:

Austin, Texas,
June 5, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred H. B. No. 823, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

CARNEY, Chairman

Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred H. B. No. 666, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

CARNEY, Chairman

Senator Bracewell submitted the following report:

Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred H. B. No. 330, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

BRACEWELL, Chairman

Senator Bullock submitted the following report:

Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Towns and City Corporations, to whom was referred House Bill 822, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

BULLOCK, Chairman

Senator Carney submitted the following reports:

Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred H. B. No. 824, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

CARNEY, Chairman

Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred H. B. No. 815, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

CARNEY, Chairman

Bill and Resolution Ordered Not Printed

On motion of Senator Ashley and by unanimous consent, it was ordered that H. C. R. No. 52 be not printed.

On motion of Senator Aikin and by unanimous consent, it was ordered that H. B. No. 330 be not printed.

House Bill 666 on Second Reading

Senator Lane asked unanimous consent to suspend the regular order of business and that H. B. No. 666 be laid out for consideration at this time.

There was objection.

Senator Lane then moved to suspend the regular order of business and that H. B. No. 666 be laid out for consideration at this time.

The motion prevailed by the following vote:

Yeas—28

Aikin	Lock
Ashley	Martin
Bell	McDonald
Bracewell	Moffett
Bullock	Moore
Carney	Nokes
Carter	Parkhouse
Colson	Phillips
Corbin	Russell
Fuller	Shofner
Hardeman	Strauss
Hazlewood	Tynan
Kelley of Hidalgo	Wagonseller
Lane	Weinert

Nays—3

Hudson	Vick
Kelly of Tarrant	

The President laid before the Senate on its second reading and passage to third reading the following bill:

H. B. No. 666, A bill to be entitled "An Act providing for a marketing news service for farmers and other interested parties, etc., and declaring an emergency."

The bill was read second time and passed to third reading.

House Bill 666 on Third Reading

Senator Lane moved that the Constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 666 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—25

Aikin	Lock
Ashley	Martin
Bell	McDonald
Bracewell	Moffett
Bullock	Moore
Carney	Nokes
Carter	Parkhouse
Colson	Phillips
Corbin	Russell
Fuller	Strauss
Hardeman	Tynan
Kelley of Hidalgo	Weinert
Lane	

Nays—5

Hazlewood	Vick
Hudson	Wagonseller
Kelly of Tarrant	

Absent

Shofner

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—26

Aikin	Lock
Ashley	Martin
Bell	McDonald
Bracewell	Moffett
Bullock	Moore
Carney	Nokes
Carter	Parkhouse
Colson	Phillips
Corbin	Russell
Fuller	Shofner
Hazlewood	Strauss
Kelley of Hidalgo	Tynan
Lane	Weinert

Nays—5

Hardeman	Vick
Hudson	Wagonseller
Kelly of Tarrant	

House Bill 330 on Second Reading

Senator Aikin moved to suspend the regular order of business and the constitutional rule requiring bills to be read on three several days and that H. B. No. 330 be placed on second reading and passage to third reading and on third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Lock
Ashley	Martin
Bell	Moffett
Bracewell	Moore
Bullock	Nokes
Carney	Parkhouse
Carter	Phillips
Colson	Russell
Corbin	Shofner
Fuller	Strauss
Hardeman	Tynan
Hazlewood	Vick
Hudson	Wagonseller
Kelley of Hidalgo	Weinert
Kelly of Tarrant	

Absent

Lane	McDonald
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The President laid before the Senate on its second reading and passage to third reading the following bill:

H. B. No. 330, A bill to be entitled "An Act declaring it to be a misdemeanor for a person to keep, occupy

or use, or permit to be kept, occupied or used, a place, building, room, table, establishment or apparatus for playing policy, etc., and declaring an emergency."

The bill was read second time.

Senator Nokes offered the following amendment to the bill:

Amend H. B. 330 by striking out all below the enacting clause and substituting in lieu thereof the following:

Section 1. Any person who shall directly, or as agent, servant, or employee for another, or through any agent, servant, employee, or other person, keep or exhibit for the purpose of gaming, any policy game, shall be guilty of a felony and upon conviction shall be punished by confinement in the State penitentiary for any term of years not less than two (2) nor more than four (4).

Sec. 2. Any person who takes or accepts or places for another a bet or wager of money or other valuable thing upon any policy game; or any person who offers to take or accept or place for another a bet or wager of money or other valuable thing upon any policy game; or any person who plays or places or delivers a bet or wager of money or other valuable thing upon any policy game; or any person who shall possess, except for evidence purposes, any writing, paper, print, number, device, press, policy slip, policy book, policy dream book, policy player's guide or article of any kind or character whatever designed or adaptable for use in connection with any policy game; or any person who aids or encourages in any manner in any of the offenses or acts named herein, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not less than thirty (30) days nor more than one (1) year, or by both such fine and imprisonment.

Sec. 3. Any owner, agent, lessor or lessee of any real or personal property who shall knowingly use or knowingly permit such property to be used in connection with any policy game shall be guilty of a misdemeanor and upon conviction shall be punished as set forth under Section 2 of this Act.

Sec. 4. Any room, place, building, structure, or property used in con-

nection with any offense under this Act is hereby declared to be a public nuisance. Whenever the District Attorney, Criminal District Attorney, County Attorney, or Attorney General has reliable information that such a nuisance exists he shall file a suit in the name of the State in the county where the nuisance is alleged to exist to abate such nuisance. If judgment be in favor of the State then judgment shall be rendered abating such nuisance and enjoining the defendant or defendants from maintaining the same and ordering the said premises to be closed for one (1) year from date of said judgment unless the defendants in said suit or the owner, tenant or lessee of said property make bond payable to the State at the county seat of the county where such nuisance is found to exist in the penal sum of not less than One Thousand Dollars (\$1,000) nor more than Five Thousand Dollars (\$5,000) with good and sufficient sureties to be approved by the judge trying the case, conditioned that the acts prohibited in this Act shall not be done or permitted to be done in or upon said premises or the terms of the injunction violated. On the violation of any conditions of such bond or injunction the whole sum may be recovered as a penalty in the name of and for the State in the county where such conditions are violated, all such suits to be brought by the District Attorney, Criminal District Attorney, or County Attorney of such county or the Attorney General of Texas.

Sec. 5. Upon the trial for any offense under this Act it shall not be necessary for the State to allege or prove that money or other thing of value was won or lost thereon.

Sec. 6. A conviction may be had for violation of any of the provisions of this Act upon the uncorroborated testimony of any accomplice. Any party to a transaction prohibited by this Act may be required to furnish evidence and testify, but after so furnishing evidence or so testifying, such person shall not be prosecuted with reference to any transaction about which he is required to furnish evidence and testify.

Sec. 7. Two (2) or more persons may be jointly indicted in single or multiple counts of the same indictment for the violation of any of the provisions of this Act, and at the election of the State be jointly tried; provided that upon any such joint

trial the defendants may testify as witnesses for one another.

Sec. 8. It shall be the duty of all peace officers to arrest without warrant any and all persons violating any provisions of this Act, whenever such violation shall be committed within the view of such officer or officers.

Sec. 9. The provisions of this Act shall be cumulative of all existing provisions of the Penal Code of the State of Texas and in the event of a conflict between existing law and the provisions of this Act, the provisions of this Act shall prevail over existing law.

Sec. 10. If any clause, provision, requirement, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not invalidate the remainder of this Act; but shall be confined in its operation to the clause, provision, requirement, or part hereof declared invalid.

Sec. 11. The fact that policy games are becoming more widespread and more organized throughout the State, and the fact that the huge profits from such crime are being used to organize other gambling enterprises, and the fact that more stringent laws are needed in order to curb this evil creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and said rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

The amendment was adopted.

Senator Nokes offered the following amendment to the bill:

Amend H. B. No. 330 by striking out all above the enacting clause and substituting in lieu thereof the following:

H. B. No. 330, A bill to be entitled "An Act making it unlawful to keep or exhibit a policy game; making it unlawful to take, accept, or place, or offer to take, accept, or place, a bet or wager upon any policy game, or to play or place a bet or wager upon any policy game, or to possess, except for evidence purposes, any article of any kind or character designed or adaptable for use in connection with any policy game; making it unlawful to aid or encourage any of the offenses herein named; making it unlawful to use or permit any property

or premises to be used in connection with any policy game; declaring the use of any property or premises in connection with any policy game to be a public nuisance and providing procedure for the abatement of any such nuisance; prescribing penalties for violation of the provisions hereof; prescribing the quantum of proof and allegation required upon trial of cases arising under this Act; authorizing conviction for any offense under this Act upon the uncorroborated testimony of any accomplice, and exempting from prosecution any accomplice who testifies; making the provisions of this Act cumulative of existing laws; authorizing arrests without warrants in certain instances; providing for joint indictment and joint trial for offenses under this Act and prescribing procedure relative thereto; providing a savings clause; and declaring an emergency."

The amendment was adopted.

The bill, as amended, was passed to third reading.

House Bill 330 on Third Reading

The constitutional rule requiring bills to be read on three several days having been suspended, the President laid H. B. No. 330 before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—29

Aikin	Lock
Ashley	Martin
Bell	McDonald
Bracewell	Moffett
Bullock	Moore
Carney	Nokes
Carter	Parkhouse
Colson	Phillips
Fuller	Russell
Hardeman	Shofner
Hazlewood	Tynan
Hudson	Vick
Kelley of Hidalgo	Wagonseller
Kelly of Tarrant	Weinert
Lane	

Absent

Corbin Strauss

House Bill 313 on Second Reading

On motion of Senator Phillips, and by unanimous consent, the regular order of business was suspended to take up for consideration at this

time on its second reading and passage to third reading:

H. B. No. 313, A bill to be entitled "An Act to provide a closed season on wild turkey in Fort Bend County for a period of five (5) years; prescribing a penalty; repealing all laws in conflict herewith; and declaring an emergency."

The bill was read second time and passed to third reading.

House Bill 313 on Third Reading

Senator Phillips moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 313 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Lane
Ashley	Lock
Bell	Martin
Bracewell	Moffett
Bullock	Moore
Carney	Parkhouse
Carter	Phillips
Colson	Russell
Corbin	Shofner
Fuller	Strauss
Hardeman	Tynan
Hazlewood	Vick
Hudson	Wagonseller
Kelley of Hidalgo	Weinert

Absent

Kelly of Tarrant Nokes
McDonald

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—29

Aikin	Lane
Ashley	Lock
Bell	Martin
Bracewell	Moffett
Bullock	Moore
Carney	Parkhouse
Carter	Phillips
Colson	Russell
Corbin	Shofner
Fuller	Strauss
Hardeman	Tynan
Hazlewood	Vick
Hudson	Wagonseller
Kelley of Hidalgo	Weinert
Kelly of Tarrant	

Absent

McDonald

Nokes

**House Concurrent Resolution 171 on
Second Reading**

On motion of Senator Hazlewood, and by unanimous consent, the President laid before the Senate for consideration at this time the following resolution:

H. C. R. No. 171, Suspending the Joint Rules to permit the consideration of House Bill No. 826 at any time.

The resolution was read second time and was adopted.

House Concurrent Resolution 170

The President laid before the Senate for consideration at this time, the following resolution:

H. C. R. No. 170, Suspending the Joint Rules to permit the House and Senate to take up and consider Senate Bill No. 474 at any time.

The resolution was read.

On motion of Senator Bullock, and by unanimous consent, the resolution was considered immediately and was adopted.

**Conference Committee Report on
House Bill 190**

Senator Hardeman submitted the following Conference Committee report on H. B. No. 190:

Austin, Texas,
June 6, 1951.

Hon. Reuben Senterfitt, Speaker of the House;

Hon. Ben Ramsey, President of the Senate.

Sirs: We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H. B. No. 190, have met and had same under consideration, and beg to report it back with the recommendation that it do pass in the form attached.

NORTON
GRAY
SMITH
WOODS

On the part of the House.

BELL
BULLOCK
ASHLEY

RUSSELL
HARDEMAN

On the part of the Senate.

H. B. No. 190, A bill to be entitled "An Act amending House Bill 97, Acts of the Fifty-first Legislature, Regular Session, 1949, providing grants to soil conservation districts; re-appropriating the unexpended balances of all money appropriated to soil conservation districts out of the general fund of the State Treasury by said House Bill 97; providing for the eligibility of a soil conservation district to receive funds; providing for the manner in which money is to be allocated; providing for certification to the State Comptroller for payment of grants; providing that money received by districts shall be deposited in the name of such District in State or National Banks; providing the manner of withdrawal of such funds; providing for the execution of a surety bond for all employees and officers who shall be entrusted with funds or property; providing for the keeping of a full record of proceedings; providing for the duties and responsibilities of officers and employees; providing for annual audits of accounts of receipts and disbursements; providing for the dates of such audits; and providing for the furnishing of a copy of the audit to the Governor and Legislative Budget Board; providing for the employment of an accountant for making audit; providing for the payment of audit and premiums on surety bonds; providing for the lease or purchase and operation of machinery and equipment necessary in carrying out soil conservation program; providing for repairs to machinery and equipment; providing for charge for services; providing for repayment of funds granted districts under this Act; providing that any equipment purchased or granted to the district or on loan from the Federal or State governments or any of their agencies, or any equipment purchased by districts from its assets prior to the grant provided in this Act, may be operated from funds provided in this Act at a nominal charge under certain conditions; providing for the disposal of obsolete or unnecessary equipment; providing for the purchase and supply to landowners and occupiers of seeds, fertilizers or supplies; providing for the cooperation of supervisors with research divisions of the State, State institutions and the federal govern-

ment; providing for the disposal of equipment on discontinuance of a soil conservation district; providing for the moneys received from sale of equipment and balance of money held by discontinued soil conservation district to be deposited to the credit of the State Soil Conservation Fund for the purpose of re-allocation to operating districts; providing for the handling of money and equipment when a soil conservation district dissolves in order to adjust boundary lines; providing for the manner in which a soil conservation district may be discontinued, providing for the adoption by supervisors of comprehensive plans for soil conservation and providing for this information being brought to the attention of the people, providing for the legality of this Act with respect to the constitutionality of other parts of this Act, and containing a savings clause, and declaring an emergency."

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. The unexpended balances of all sums appropriated to and granted the several soil conservation districts of Texas for the fiscal year ending August 31, 1950, and for the fiscal year ending August 31, 1951, are hereby re-appropriated and granted to such soil conservation districts. A soil conservation district shall be eligible to receive grants for each period of the biennium after it has been duly organized and a Certificate of Organization for the district has been approved and signed by the Secretary of State. All grants to soil conservation districts shall be made by the State Soil Conservation Board based on the Board's determination of equity and need of the district applying for the grant.

Sec. 2. Approval of all grants of assistance to soil conservation districts as provided in this Act shall be certified to the State Comptroller of Public Accounts by the State Soil Conservation Board. Such certification or approval by the State Soil Conservation Board, presented to the Comptroller, shall be sufficient authority for the Comptroller to issue his warrants against any appropriation made for grants to Soil Conservation Districts and shall be also sufficient authority for the State Treasurer to honor payment of such warrants.

Any item of machinery or equip-

ment authorized to be purchased under the terms of this Act shall be purchased through the Board of Control under such regulations and provisions as are now required by law governing purchases for the State or any of its political subdivisions, which make purchases through the Board of Control; provided, however, that any purchases of machinery or equipment not exceeding Seven Hundred Dollars (\$700.00) may be made without the necessity of going through the Board of Control, provided prior written approval of the Legislative Budget Board has been first obtained; providing, however, that any repairs to machinery or equipment not exceeding the sum of Two Hundred Dollars (\$200.00) may be made by the conservation district supervisors without the necessity of going through the Board of Control, but such expenditures for repairs shall not be used for the original purchase of equipment or machinery.

Sec. 3. Grants of assistance to soil conservation districts as provided in this Act, when received by the district shall be deposited in the name of the district. Such deposits shall be with a State or National bank or banks. Any withdrawals of such funds so deposited to the credit of the district may be withdrawn only on approval of the Board of Supervisors of the district. All checks or orders for such withdrawals shall be signed by the Chairman and Secretary of the Board of Supervisors of the district.

Sec. 4. The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings, and of all resolutions, regulations and orders issued or adopted. Supervisors may assign to their officers or employees such duties and responsibilities as they may deem necessary to carry out the provisions of this Act, and shall provide for an annual audit of accounts of receipts and disbursements; provided, however, that the first audit shall be for the two-year period beginning September 1, 1949, and ending August 31, 1951. Thereafter, an annual audit shall be made so long as a district is in possession of State funds or equipment, and the period covered by each audit shall be the fiscal year ending August 31. Supervisors shall employ qualified accountants for mak-

ing such annual audits, copies of which shall be furnished the Governor and the Legislative Budget Board not later than the 1st of January following the end of the fiscal year covered by such audit. The secretary or secretary-treasurer of the district shall be bonded in an amount equal to at least one-half of the amount of the district's average daily deposit for the preceding year. The expense of keeping the accounts of the district, the annual audits and the payment of premiums on any surety bonds required by law in the conduct of the affairs of the district shall be paid out of any funds available to the district.

Sec. 5. To carry out the purposes of the soil conservation district program as is provided in the State Soil Conservation Law, supervisors may acquire by lease or purchase machinery and equipment and operate such machinery or equipment or may furnish same under lease or rental agreement at prices being currently charged for such services; provided, however, that the charge in any particular project shall never be less than the actual cost to the particular district for reasonable rental, labor, maintenance, depreciation and replacement of equipment. It is further provided that each district receiving funds under this Act shall pay five per cent (5%) of any sums received as rental payments on equipment or machinery under lease to the State Treasury for deposit in the general fund, until the funds received by a district under this Act shall have been repaid in full.

Sec. 6. Any equipment purchased by or granted to the district or on loan by the Federal government or any of its agencies, or the State or any of its agencies, may be operated from funds provided in this Act at a nominal charge for such services on such projects as may affect small landowners, or small watersheds and as are considered by the supervisors to be in the interest of and for the general welfare.

Sec. 7. Any equipment considered by the supervisors to be obsolete or having served its purpose may be disposed of by the supervisors on open bids or for trade-in on new equipment. Any cash received for the sale of equipment or supplies may be used by the supervisors for further normal district operations.

Sec. 8. Supervisors may purchase and supply or make available to land-

owners and occupiers, seeds, fertilizers and other supplies including machinery and equipment when considered by supervisors to be essential to the progress of the district program, and to provide insurance and storage for such supplies and equipment. From the sale of seeds, fertilizers, or supplies, the supervisors shall be reimbursed for the cost and handling charges.

Sec. 9. The supervisors of Soil Conservation Districts may cooperate with the research divisions of the State, State Institutions and the Federal government in research and demonstration work on range grasses, soil analysis, cropping systems and management of grasses, seeds, legumes and other crops and the eradication of obnoxious growth as related to good conservation practices in each soil conservation district in the State. The use of any materials, fertilizers or equipment owned by the district necessary to such operations may be supplied by the supervisors.

Sec. 10. Prior to the discontinuance of a soil conservation district, as provided in Section 12 of this Act, all machinery, supplies or equipment purchased with State funds shall be sold at public sale by the supervisors and all cash received from such sales, together with any cash balance from State funds to the credit of the district shall be transferred to the credit of the State's General Fund and shall be so deposited to the credit of the State of Texas by the Secretary of the Board of Supervisors of the district prior to the date fixed for the discontinuance of such district.

Sec. 11. In case any organized soil conservation district is dissolved by a vote of the landowners for the purpose of adjusting boundary lines and is immediately reorganized by a vote of the landowners, any funds or equipment owned by the district prior to such reorganization shall pass to the credit of such district upon reorganization. If more than one district is created as the result of such reorganization, funds or equipment owned by the original district involved in the reorganization shall be prorated amongst the newly created districts by the supervisors of the districts involved on terms and amounts agreeable to the supervisors.

Sec. 12. A soil conservation district may be discontinued by a vote of qualified voters of the district in the same manner in which the district

was created, provided at least a majority of the votes cast at the election are for the discontinuance of the district. A certified statement to the Secretary of State by the State Soil Conservation Board that a majority of the ballots cast were for the discontinuance of the district shall be sufficient evidence for the Secretary of State to record and acknowledge such discontinuance as a part of the records of that department.

Sec. 13. Supervisors may adopt comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances and avoidances which are necessary or desirable for the effectuation of such plans including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to bring such plans and information to the attention of the people.

Sec. 14. If any part, section, subsection, paragraph, sentence, clause or portion of this Act shall be held by the courts to be unconstitutional, such holding shall not in any manner affect the validity of the remaining portions of this Act.

Sec. 15. That there is urgent need by the more than one hundred and sixty (160) soil conservation districts, organized and operated under State law, for assistance provided in this Act, and the fact that the lack of authorization and clarity in House Bill 97 is retarding progress in the conservation of soil and soil resources creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and said rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

The report was read and was adopted by the following vote:

Yeas—28

Aikin	Colson
Ashley	Corbin
Bell	Fuller
Bracewell	Hardeman
Bullock	Hazlewood
Carney	Hudson
Carter	Kelley of Hidalgo

Kelly of Tarrant	Russell
Lane	Shofner
Lock	Strauss
Martin	Tynan
Moffett	Vick
Parkhouse	Wagonseller
Phillips	Weinert

Absent

McDonald	Nokes
Moore	

Senate Resolution 303

Senator Hudson offered the following resolution:

Whereas, We are honored today to have in the gallery twenty-four students from the Odessa Public Schools together with their Scoutmasters Mr. Gulbeau and Mr. Smith, and their Councilmen Mr. Crane and Mr. Stringer; and

Whereas, These students and guests are on an educational tour of the Capitol Building and the Capital City; now, therefore, be it

Resolved, That these individuals be officially welcomed and recognized by the Senate, and that they be extended the courtesies of the floor for the day.

The resolution was read and was adopted.

Senate Concurrent Resolution 80

By unanimous consent, Senator Bell offered the following resolution:

S. C. R. No. 80, Recalling S. B. No. 291 from the Governor and correcting same.

Whereas, Senate Bill No. 291 has passed both the Senate and the House and is now on the Governor's desk; and

Whereas, An error was made therein in referring to the statute to be amended; now, therefore be it

Resolved, By the Senate of Texas, the House of Representatives concurring, that the Governor of Texas be requested respectfully to return Senate Bill 291 to the Senate for correction; and be it further

Resolved, That upon its return, the Enrolling Clerk of the Senate be requested and directed to again enroll such bill and to correct the error therein by substituting in Section 1 thereof the words:

"Section 1. Section 7 of House Bill 103, Chapter 95, Regular Session, 51st Legislature, as amended, is amended

hereby so that the same shall read hereafter as follows:"
in lieu of the words:

"Section 1. Article 4590c, Title 71, Chapter 16, Revised Civil Statutes of Texas, 1925, as amended, is hereby amended so that the same shall hereafter read as follows:"

and by using the following caption in lieu of the caption heretofore used: "An Act to amend Section 7 of House Bill 103, Chapter 95, Acts Regular Session, 51st Legislature, as amended; and declaring an emergency."

The resolution was read.

On motion of Senator Bell, and by unanimous consent, the resolution was considered immediately and was adopted.

Bill Ordered Not Printed

On motion of Senator Kelley of Hidalgo, and by unanimous consent, it was ordered that H. B. No. 815 be not printed.

Recess

On motion of Senator Aikin the Senate at 12:20 o'clock p. m. took recess until 2:30 o'clock p. m. today.

After Recess

The President called the Senate to order at 2:30 o'clock p. m. today.

Leave of Absence

Senator Moore was granted leave of absence for the remainder of the day on account of important business on motion of Senator Corbin.

Bill Signed

The President signed in the presence of the Senate, after the caption had been read, the following enrolled bill:

H. B. No. 426, A bill to be entitled "An Act making appropriations for the support and maintenance of the judiciary and the executive and administrative departments and agencies of the State of Texas, for the support, maintenance and improvement of the State hospitals and special schools and institutions under the management and control of the Youth Development Council of the State of Texas, for the operation, maintenance and improvement of the

several State institutions of higher education and certain other institutions and agencies and to supplement local funds for the support and improvement of the accredited public junior colleges of Texas for the biennium beginning September 1, 1951, and ending August 31, 1953; etc., and declaring an emergency."

Reports of Standing Committees

By unanimous consent the following committee reports were submitted at this time.

Senator Phillips submitted the following reports:

Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. C. R. No. 151, have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

PHILLIPS, Chairman.

Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. C. R. No. 49, have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

PHILLIPS, Chairman.

Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. C. R. No. 50, have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

PHILLIPS, Chairman.

Senator Carney submitted the following report:

Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Fi-

nance, to whom was referred H. B. No. 147, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

CARNEY, Chairman.

Senator Ashley submitted the following report:

Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred H. J. R. No. 23, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

ASHLEY, Chairman.

Senator Bracewell submitted the following report:

Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred H. B. No. 619, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

BRACEWELL, Chairman.

House Bill 824 on Second Reading

Senator Moffett moved to suspend the regular order of business and the constitutional rule requiring bills to be read on three several days and that H. B. No. 824 be placed on its second reading and passage to third reading and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Hudson
Ashley	Kelley of Hidalgo
Bell	Kelly of Tarrant
Bracewell	Lane
Bullock	Lock
Carney	Martin
Carter	McDonald
Colson	Moffett
Corbin	Moore
Fuller	Nokes
Hardeman	Parkhouse
Hazlewood	Phillips

Russell
Shofner
Strauss
Tynan

Vick
Wagonseller
Weinert

The President laid before the Senate on its second reading and passage to third reading the following bill:

H. B. No. 824, An Act regulating the taking of minnows in Wilbarger County etc., and declaring an emergency.

The bill was read second time and was passed to third reading.

House Bill 824 on Third Reading

The constitutional rule requiring bills to be read on three several days having been suspended, the President laid H. B. No. 824 before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—31

Aikin	Lock
Ashley	Martin
Bell	McDonald
Bracewell	Moffett
Bullock	Moore
Carney	Nokes
Carter	Parkhouse
Colson	Phillips
Corbin	Russell
Fuller	Shofner
Hardeman	Strauss
Hazlewood	Tynan
Hudson	Vick
Kelley of Hidalgo	Wagonseller
Kelly of Tarrant	Weinert
Lane	

Bills and Resolutions Ordered Not Printed

On motion of Senator Hudson and by unanimous consent, it was ordered that H. B. No. 822 and H. B. No. 147 be not printed.

On motion of Senator Ashley and by unanimous consent, it was ordered that H. C. R. No. 49 and H. C. R. No. 50 be not printed.

House Bill 805 on Second Reading

On motion of Senator Hazlewood and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 805, A bill to be entitled

"An Act providing for the appointment of a Commissioner to serve as a member of the Canadian River Commission; and declaring an emergency."

The bill was read second time and passed to third reading.

House Bill 805 on Third Reading

Senator Hazlewood moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 805 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Lane
Ashley	Lock
Bell	Martin
Bracewell	Moffett
Bullock	Moore
Carney	Parkhouse
Carter	Phillips
Colson	Russell
Corbin	Shofner
Fuller	Strauss
Hardeman	Tynan
Hazlewood	Vick
Hudson	Wagonseller
Kelley of Hidalgo	Weinert

Absent

Kelly of Tarrant Nokes
McDonald

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Kelly of Tarrant
Ashley	Lane
Bell	Martin
Bracewell	Moffett
Bullock	Moore
Carney	Parkhouse
Carter	Phillips
Colson	Russell
Corbin	Shofner
Fuller	Strauss
Hardeman	Tynan
Hazlewood	Vick
Hudson	Wagonseller
Kelley of Hidalgo	Weinert

Absent

Lock Nokes
McDonald

Senate Resolution 304

Senator Lock offered the following resolution:

Whereas, We are honored today to have in the gallery the Senior Class of the Diboll High School, accompanied by their sponsors, Miss Brazil and Mr. Carrington; and,

Whereas, These students and guests are on an educational tour of the Capitol Building and the Capital City; now, therefore, be it

Resolved, That these individuals be officially welcomed and recognized by the Senate, and that they be extended the courtesies of the floor for the day.

The resolution was read and was adopted.

Message from the House

Hall of the House of Representatives,
Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. C. R. 70, Relative to adjournment sine die on June 8, 1951, at 12 noon.

The House has concurred in Senate amendments to H. J. R. 6 by vote of 101 yeas, 28 nays.

S. C. R. No. 79, Suspending Joint Rules in order that either House can consider S. B. No. 474 at any time.

Respectfully submitted,

CLARENCE JONES,
Chief Clerk, House of Representatives.

Senate Resolution 305

Senator Shofner offered the following resolution:

Whereas, We are honored today to have in the gallery the Sophomore Class of Hamilton High School, accompanied by their teacher, Miss Mary Garrett; and

Whereas, These students and guests are on an educational tour of the Capitol Building and the Capital City; now, therefore, be it

Resolved, That these individuals be officially welcomed and recognized by the Senate, and that they be extended the courtesies of the floor for the day.

The resolution was read and was adopted.

House Joint Resolution 40 on Third Reading

Senator Ashley asked unanimous consent to suspend the regular order of business and that H. J. R. No. 40 be laid out for consideration at this time.

There was objection.

Senator Ashley then moved to suspend the regular order of business and that H. J. R. No. 40 be laid out for consideration at this time.

The motion prevailed by the following vote:

Yeas—21

Aikin	Kelley of Hidalgo
Ashley	Lane
Bell	Lock
Bracewell	Parkhouse
Bullock	Phillips
Carney	Russell
Colson	Shofner
Corbin	Strauss
Fuller	Vick
Hazlewood	Wagonseller
Hudson	

Nays—8

Carter	McDonald
Hardeman	Moffett
Kelly of Tarrant	Tynan
Martin	Weinert

Absent

Nokes

Absent—Excused

Moore

The President laid H. J. R. No. 40 before the Senate on its third reading and final passage.

The resolution was read third time but failed of adoption by the following vote (not receiving twenty-one votes of the members of the Senate):

Yeas—17

Aikin	Hudson
Ashley	Kelley of Hidalgo
Bell	Lane
Bullock	Parkhouse
Carney	Phillips
Colson	Shofner
Corbin	Strauss
Fuller	Wagonseller
Hazlewood	

Nays—11

Bracewell Carter

Hardeman	Russell
Kelly of Tarrant	Tynan
Martin	Vick
McDonald	Weinert
Moffett	

Absent

Lock

Nokes

Absent—Excused

Moore

House Bill 285 Ordered Printed as Supplement to Journal

On motion of Senator Aikin and by unanimous consent, the Senate ordered 500 copies of the Conference Committee Report on H. B. No. 285 printed as a supplement to the Journal of today.

At Ease

On motion of Senator Weinert and by unanimous consent the Senate at 3:00 o'clock p. m. agreed to stand at ease subject to the call of the Chair.

In Legislative Session

The President called the Senate to order as in Legislative Session at 3:35 o'clock p. m.

Message From the Governor

The President laid before the Senate and directed the Secretary to read the following message received from the Governor today:

Austin, Texas,
June 6, 1951.

To the Senate of the Fifty-second Legislature:

Complying with the request contained in Senate Concurrent Resolution No. 76, I am returning herewith Senate Bill No. 453.

Respectfully submitted,
ALLAN SHIVERS,
Governor of Texas.

Vote Reconsidered on Senate Bill 453

Senator Tynan asked unanimous consent to reconsider the vote by which the Senate concurred in the House amendments to S. B. No. 453.

There was no objection offered.

Senate Bill 453 with House Amendments

Senator Tynan called S. B. No. 453 from the President's table for con-

sideration of the House amendments to the bill.

The President laid the bill and House amendments before the Senate, and the House amendments were read.

Senator Tynan moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill:

Senators Tynan, Bullock, Martin, Bracewell and Moffett.

Conference Committee Report on House Joint Resolution 19

Senator Fuller submitted the following Conference Committee Report on H. J. R. No. 19:

Austin, Texas,
May 16, 1951.

Hon. Reuben Senterfitt, Speaker of the House of Representatives;
Hon. Ben Ramsey, President of the Senate.

Sir: We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H. J. R. No. 19, have met and had same under consideration, and beg to report it back with the recommendation that it do pass in the form attached.

FULLER
LANE
STRAUSS
CARTER
VICK

On the part of the Senate.

WILLIS
PRESNAL
ATWELL
DUFF

BRADSHAW

On the part of the House.

H. J. R. 19, House Joint Resolution Proposing an amendment to the Constitution of the State of Texas to provide a four year term of office for elective State, district, county and precinct officers; staggering the terms of such offices by having certain holders thereof be elected for terms of

varying length in the November, 1952, general election; prescribing eligibility for such offices; providing that, subject to a specified minimum for certain offices, salaries of certain State officers shall be fixed by the Legislature; providing that, subject to a specified maximum, per diem compensation for members of the Legislature shall be fixed by the Legislature; providing that certain officers shall not be permitted to have their names placed on the ballot for any other office at any election unless they resign from the offices which they hold or unless the terms of office they hold expire within the calendar year when such election is held; removing from the Constitution the office of Hide and Animal Inspector; removing the mandatory provisions providing for the election of two justices of the peace in certain cities; and providing for the necessary proclamation and election.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. That Section 24 of Article III of the Constitution of the State of Texas be amended so as to read as follows:

"Sec. 24. Members of the Legislature shall receive from the public treasury a per diem of not exceeding \$30.00 per day of each regular session not to exceed 130 days or any called session not to exceed 30 days. In addition to the per diem, the members of each House shall be entitled to mileage in going to and returning from the seat of government, which mileage shall not exceed \$2.50 for each 25 miles, the distance to be computed by the nearest and most direct route of travel, from a table of distance prepared by the Comptroller to each county seat now or hereafter to be established; no member to be entitled to mileage for any extra session that may be called within one day after the adjournment of a regular or called session."

Section 2. That Section 4 of Article IV of the Constitution of the State of Texas be amended so as to read as follows:

"Sec. 4. The Governor shall be installed on the first Tuesday after the organization of the Legislature, or as soon thereafter as practicable, and shall hold his office for the term of four years, or until his successor shall be duly installed. He shall be at least thirty years of age, a citizen of the

United States, and shall have resided in this State at least five years immediately preceding his election. At the general election to be held in November, 1956, and thereafter, no person shall be elected to the office of Governor to succeed himself, or herself, after serving a full elective term."

Section 3. That Section 5 of Article IV of the Constitution of the State of Texas be amended so as to read as follows:

"Sec. 5. The Governor shall, at stated times, receive as compensation an annual salary to be fixed by the Legislature, and shall have the use and occupation of the Governor's Mansion, fixtures and furniture."

Section 4. That Section 17 of Article IV of the Constitution of the State of Texas be amended so as to read as follows:

"Sec. 17. If, during the vacancy in the office of Governor, the Lieutenant-Governor should die, resign, refuse to serve, or be removed from office, or be unable to serve; or if he shall be impeached or absent from the State, the President of the Senate, for the time being, shall, in like manner, administer the Government until he shall be superseded by a Governor or Lieutenant-Governor. The Lieutenant-Governor shall, while he acts as President of the Senate, receive for his services as compensation an annual salary to be fixed by the Legislature; and during the time he administers the Government, as Governor, he shall receive in like manner the same compensation which the Governor would have received had he been employed in the duties of his office, and no more. The President of the Senate, for the time being, shall, during the time he administers the Government, receive in like manner the same compensation which the Governor would have received had he been employed in the duties of his office."

Section 5. That Section 22 of Article IV of the Constitution of the State of Texas be amended so as to read as follows:

"Sec. 22. The Attorney General shall hold office for four years and until his successor is duly qualified. He shall represent the State in all suits and pleas in the Supreme Court of the State in which the State may be a party, and shall especially inquire into the charter rights of all private corporations, and from time to time, in the name of the State,

take such action in the courts as may be proper and necessary to prevent any private corporation from exercising any power or demanding or collecting any species of taxes, tolls, freight or wharfage not authorized by law. He shall, whenever sufficient cause exists, seek a judicial forfeiture of such charters, unless otherwise expressly directed by law, and give legal advice in writing to the Governor and other executive officers, when requested by them, and perform such other duties as may be required by law. He shall reside at the seat of government during his continuance in office. He shall receive for his services an annual salary to be fixed by the Legislature."

Section 6. That Section 23 of Article IV of the Constitution of the State of Texas be amended so as to read as follows:

"Sec. 23. The Comptroller of Public Accounts, the Treasurer and the Commissioner of the General Land Office shall each hold office for the term of four years, and until his successor is qualified; shall receive an annual salary to be fixed by the Legislature, shall reside at the Capital of the State during his continuance in office; and shall perform such duties as are or may be required by law. They and the Secretary of State shall not receive to their own use any fees, costs or perquisites of office. All fees that may be payable by law for any service performed by any officer specified in this Section, or in his office, shall be paid, when received, into the State Treasury."

Section 7. That Article IV of the Constitution of the State of Texas be amended by adding thereto a Section 27 which shall read as follows:

"Sec. 27. A Commissioner of Agriculture shall be elected for a term of four years. He shall be an experienced and practical farmer, and shall have knowledge of agriculture, manufacture and general industry. His office shall be in Austin. He shall receive an annual salary to be fixed by the Legislature."

Section 8. That Article IV of the Constitution of the State of Texas be amended by adding thereto a Section 28 which shall read as follows:

"Sec. 28. In no case shall the Legislature set the salary of the Governor at less than Fifteen Thousand Dollars (\$15,000.00) per annum. In no case shall the Legislature set the salaries of the Lieutenant-Governor, Attorney General, Comptroller of Public Ac-

counts, Commissioner of the General Land Office, Treasurer and Secretary of State at less than Ten Thousand Dollars (\$10,000.00) per annum, and should the Legislature fail to appropriate these salaries, or a sufficient amount to pay same, the Treasurer is authorized to pay such salaries to the legal holders of such offices without further authority."

Section 9. That Section 9 of Article V of the Constitution of the State of Texas be amended so as to read as follows:

"Sec. 9. There shall be a clerk of the District Court of each county, who shall be elected by the qualified voters for State and county officers, and who shall hold his office for four years, subject to removal by information, or by indictment of a grand jury, and conviction by a petit jury. In case of vacancy, the Judge of the District Court shall have the power to appoint a clerk, who shall hold until the office can be filled by election."

Section 10. That Section 15 of Article V of the Constitution of the State of Texas be amended so as to read as follows:

"Sec. 15. There shall be established in each county in this State a County Court, which shall be a court of record; and there shall be elected in each county, by the qualified voters, a County Judge, who shall be well informed in the law of the State; shall be a conservator of the peace, and shall hold this office for four years, and until his successor shall be elected and qualified. He shall receive as compensation for his services such fees and perquisites as may be prescribed by law."

Section 11. That Section 18 of Article V of the Constitution of the State of Texas be amended so as to read as follows:

"Sec. 18. Each organized county in the State now or hereafter existing, shall be divided from time to time, for the convenience of the people, into precincts, not less than four and not more than eight. Divisions shall be made by the Commissioners Court provided for by this Constitution. In each such precinct there shall be elected one justice of the peace and one constable, each of whom shall hold his office for four years and until his successor shall be elected and qualified; provided that in any precinct in which there may be a city of eight thousand (8,000) or more inhabitants, there may be elected two justices of

the peace. Each county shall in like manner be divided into four commissioners precincts in each of which there shall be elected by the qualified voters thereof one county commissioner, who shall hold his office for four years and until his successor shall be elected and qualified. The county commissioners so chosen, with the County Judge as presiding officer, shall compose the County Commissioners Court, which shall exercise such powers and jurisdiction over all county business, as is conferred by this Constitution and the laws of the State, or as may be hereafter prescribed."

Section 12. That Section 20 of Article V of the Constitution of the State of Texas be amended so as to read as follows:

"Sec. 20. There shall be elected for each county, by the qualified voters, a county clerk, who shall hold his office for four years, who shall be clerk of the County and Commissioners Courts and recorder of the county, whose duties, perquisites and fees of office shall be prescribed by the Legislature, and a vacancy in whose office shall be filled by the Commissioners Court, until the next general election; provided that in counties having a population of less than eight thousand (8,000) persons there may be an election of a single clerk, who shall perform the duties of district and county clerks."

Section 13. That Section 21 of Article V of the Constitution of the State of Texas be amended so as to read as follows:

"Sec. 21. A county attorney, for counties in which there is not a resident criminal district attorney, shall be elected by the qualified voters of each county, who shall be commissioned by the Governor, and hold his office for the term of four years. In case of vacancy the Commissioners Court of the county shall have the power to appoint a county attorney until the next general election. The county attorneys shall represent the State in all cases in the District and inferior courts in their respective counties; but if any county shall be included in a district in which there shall be a district attorney, the respective duties of district attorneys and county attorneys shall in such counties be regulated by the Legislature. The Legislature may provide for the election of district attorneys in such districts, as may be deemed neces-

sary, and make provision for the compensation of district attorneys and county attorneys. District attorneys shall hold office for a term of four years, and until their successors have qualified."

Section 14. That Section 23 of Article V of the Constitution of the State of Texas be amended so as to read as follows:

"Sec. 23. There shall be elected by the qualified voters of each county a sheriff, who shall hold his office for the term of four years, whose duties and perquisites, and fees of office, shall be prescribed by the Legislature, and vacancies in whose office shall be filled by the Commissioners Court until the next general election."

Section 15. That Section 14 of Article VIII of the Constitution of the State of Texas be amended so as to read as follows:

"Sec. 14. Except as provided in Section 16 of this Article, there shall be elected by the qualified voters of each county, an Assessor and Collector of Taxes, who shall hold this office for four years and until his successor is elected and qualified; and such Assessor and Collector of Taxes shall perform all the duties with respect to assessing property for the purpose of taxation and of collecting taxes, as may be prescribed by the Legislature."

Section 16. That Section 16 of Article VIII of the Constitution of the State of Texas be amended so as to read as follows:

"Sec. 16. The sheriff of each county, in addition to his other duties, shall be the Assessor and Collector of Taxes therefor; but, in counties having ten thousand (10,000) or more inhabitants, to be determined by the last preceding census of the United States, an Assessor and Collector of Taxes shall be elected as provided in Section 14 of this Article, and shall hold office for four years and until his successor shall be elected and qualified."

Section 17. That Section 44 of Article XVI of the Constitution of the State of Texas be amended so as to read as follows:

"Sec. 44. The Legislature shall prescribe the duties and provide for the election by the qualified voters of each county in this State, of a county treasurer and a county surveyor, who shall have an office at the county seat, and hold their office for four years, and until their successors are quali-

fied; and shall have such compensation as may be provided by law."

Section 18. That Article V of the Constitution of the State of Texas be amended by adding thereto a Section 30, which shall read as follows:

"Sec. 30. The Judges of all County Courts-at-Law now or hereafter created under the laws of this State, and all criminal district attorneys now or hereafter authorized by the laws of this State, shall be elected for a term of four years, and shall serve until their successors have qualified."

Section 19. That Article XVI of the Constitution of the State of Texas be amended by adding thereto a Section 64, which shall read as follows:

"Sec. 64. At the general election to be held in November, 1952, and thereafter, the following officers shall be elected for full terms provided in this Constitution: (a) Governor; (b) Lieutenant-Governor; (c) Attorney General; (d) Comptroller of Public Accounts; (e) District Clerks; (f) County Clerks; (g) County Judges; (h) County Treasurers; (i) Criminal District Attorneys; (j) County Surveyors; (k) County Commissioners for Precincts Two and Four; (l) Justices of the Peace.

"Notwithstanding other provisions of this Constitution, at such general election the following officers shall be elected only for terms of two years: (a) State Treasurer; (b) Commissioner of the General Land Office; (c) Commissioner of Agriculture; (d) Sheriffs; (e) Assessors and Collectors of Taxes; (f) District Attorneys; (g) County Attorneys; (h) Judges of County Courts-at-Law; (i) Public Weighers; (j) County Commissioners for Precincts One and Three; (k) Constables. At subsequent elections, such officers shall be elected for the full terms provided in this Constitution.

"In any district, county or precinct where any of the aforementioned offices is of such nature that two or more persons hold such office, with the result that candidates file for 'Place No. 1, Place No. 2, etc.,' the officers elected at the general election in November, 1952, shall be elected to a term of two years if the designation of their office is an uneven number, and to a term of four years if the designation of their office is an even number. Thereafter, all such officers shall be elected for the terms provided in this Constitution.

"No officer mentioned in this sec-

tion and including members of the Texas Railroad Commission shall be permitted to offer himself as a candidate for any public office or to have his name placed on the ballot at any election, either primary or general, unless he resigns from the office which he holds, or unless the term of the office which he holds expires with the calendar year when such election is held."

Section 20. The foregoing Constitutional Amendment shall be submitted to a vote of the qualified voters of this State at a special election to be held throughout the State on November 13, 1951, at which election all ballots shall have printed thereon:

"FOR the Constitutional Amendment providing a four year term of office for elective State, district, county and precinct officers; prescribing eligibility for such offices; and providing that the salaries of certain State officers shall be fixed by the Legislature."

"A G A I N S T the Constitutional Amendment providing a four year term of office for elective State, district, county and precinct officers; prescribing eligibility for such offices; and providing that the salaries of certain State officers shall be fixed by the Legislature."

Section 21. The Governor shall issue the necessary proclamation for said election and shall have the same published as required by the Constitution and laws of this State.

The report was read.

Pending discussion of the Conference Committee Report, Senator Hudson moved the previous question on the adoption of the Conference Committee Report of H. J. R. No. 19, and the motion was duly seconded.

The previous question was ordered by the following vote:

Yeas—15

Ashley	Hazlewood
Bell	Hudson
Bullock	Lane
Carney	Lock
Carter	Russell
Colson	Shofner
Corbin	Vick
Fuller	

Nays—14

Aikin	Kelley of Hidalgo
Bracewell	Kelly of Tarrant
Hardeman	Martin

McDonald	Phillips
Moffett	Strauss
Nokes	Tynan
Parkhouse	Wagonseller

Absent

Weinert

Absent—Excused

Moore

The Conference Committee report failed of adoption by the following vote (not receiving twenty-one votes of the members of the Senate):

Yeas—17

Ashley	Kelley of Hidalgo
Bell	Lane
Bullock	Lock
Carney	Phillips
Carter	Russell
Corbin	Shofner
Fuller	Strauss
Hazlewood	Vick
Hudson	

Nays—10

Aikin	Martin
Bracewell	McDonald
Colson	Nokes
Hardeman	Tynan
Kelly of Tarrant	Wagonseller

Absent

Moffett	Weinert
Parkhouse	

Absent—Excused

Moore

Message from the House

Hall of the House of Representatives,
Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. B. No. 292, An Act making appropriations to pay miscellaneous claims out of the General Revenue Fund, or such other funds as may be designated herein for each item, not otherwise appropriated, etc.; and declaring an emergency."

(With amendments.)

S. B. No. 154, A bill to be entitled "An Act prohibiting the use in evidence against a defendant in a criminal case or a witness for the purpose

of impeachment as a witness of any complaint, information, or indictment unless a conviction for the offense charged has resulted; repealing all conflicting laws, and declaring an emergency."

S. B. No. 178, A bill to be entitled "An Act making it unlawful to negligently set on fire, or cause to be set on fire any woods, forest, cutover, brush, range, or grassland belonging to another, or to set on fire any woods, forest, cutover, brush, range, or grassland belonging to himself and allowing such fire to spread to the property of another; prescribing a penalty necessary and incident thereto; repealing all laws in conflict herewith, and declaring an emergency."

H. C. R. No. 174, Suspending the Joint Rules of the House and Senate so that the House may take up and consider House Bill No. 559 at any time.

H. C. R. No. 176, Instructing the Enrolling Clerk of the House to amend the caption of House Bill No. 666 to conform to the body of the bill.

H. C. R. No. 175, Authorizing the Enrolling Clerk of the House to make certain corrections in House Bill No. 6.

The House has concurred in Senate amendments to House Bill No. 121 by a viva voce vote.

S. B. No. 268, A bill to be entitled "An Act amending Section 4, Chapter 107, Acts of the Forty-first Legislature, Regular Session, 1929, Sections 8 and 9 of Chapter 107, Acts of the Forty-first Legislature, Regular Session, 1929, as amended by Chapter 395, Acts of the Forty-eighth Legislature, 1943, and Sections 14, 17 and 19 of Chapter 107, Acts of the Forty-first Legislature, Regular Session, 1929, as amended by Chapter 98, Acts of the Forty-fourth Legislature, Regular Session, 1935, and Chapter 395, Acts of the Forty-eighth Legislature, 1943, relating to the regulations of the practice of pharmacy; etc., and declaring an emergency."

(With amendments.)

The House has adopted the Conference Committee Report on House Bill No. 190 by a vote of 117 yeas, 0 nays.

H. C. R. No. 169, Granting permission to make certain changes in House Joint Resolution No. 6.

S. B. No. 116, A bill to be entitled "An Act relating to the salaries of all State Officers except the salaries and other compensation of District Judges and except those Constitutional State Officers whose salaries are specifically fixed by the Constitution; specifically providing that the Legislature shall fix the amount of compensation to be paid clerks of the Courts of Civil Appeals, the Supreme Court, and the Court of Criminal Appeals out of the fees of office; and specifically suspending all laws and parts of laws in conflict herewith; and declaring an emergency."

S. B. No. 131, A bill to be entitled "An Act authorizing the Commissioners' Court in any county having a population of not less than thirty-one thousand (31,000) and not more than thirty-one thousand one hundred and fifteen (31,115), according to the last preceding Federal Census, to allow each member of such Commissioners Court certain expenses for traveling in connection with the use of his automobile on official business; requiring each member of such Commissioners Court to pay the expense of operation and repair of such automobile so used by him without further expense to the county; and declaring an emergency."

(With amendments.)

Respectfully submitted,
CLARENCE JONES,
Chief Clerk, House of Representatives.

Senate Bill 131 With House Amendments

Senator Martin called S. B. No. 131 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and House amendments before the Senate, and the House amendments were read.

Senator Martin moved that the Senate concur in the House amendments.

The motion prevailed.

House Concurrent Resolution 175

On motion of Senator Ashley and by unanimous consent, the President laid before the Senate for consideration at this time:

H. C. R. No. 175, Instructing En-

rolling Clerk of the House to make certain corrections in H. B. No. 6.

The resolution was read and was adopted.

(President pro tempore in Chair.)

Senate Concurrent Resolution 81

By unanimous consent, Senator Ashley offered the following resolution:

S. C. R. No. 81, Suspending the Joint Rules to consider S. B. No. 447.

Be it resolved by the Senate, the House of Representatives concurring, That the Joint Rules of the Senate and House be suspended so that the House of Representatives and the Senate may take up and consider Senate Bill No. 447 at any time.

The resolution was read.

On motion of Senator Ashley and by unanimous consent, the resolution was considered immediately and was adopted.

(Senator Lane in Chair.)

Senate Bill 268 with House Amendments

Senator Bullock called S. B. No. 268 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and House amendments before the Senate, and the House amendments were read.

Senator Bullock moved that the Senate concur in the House amendments.

The motion prevailed.

Senate Bill 474 on Second Reading

On motion of Senator Bullock and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 474, An Act providing that in the issuance of revenue bonds for improving, enlarging and extending a waterworks system cities may issue such bonds in two series, one of which shall be payable from and secured by a pledge of all or part of the proceeds of a water supply contract and the other to be secured by and pay-

able from the net revenues of the waterworks system, etc., and declaring an emergency."

The bill was read second time.

Senator Hardeman offered the following amendment to the bill:

Amend S. B. No. 474 by striking out all of Sec. 2 thereof.

The amendment was adopted.

Senator Bullock offered the following amendment to the bill:

Amend S. B. 474 by adding at the end of Section One the following: Cities are authorized to enter into contracts for the sale of water to private corporations and upon such terms as their governing bodies may prescribe for a period of not exceeding 40 years.

The amendment was adopted.

On motion of Senator Bullock and by unanimous consent the caption was amended to conform to the body of the bill, as amended.

The bill, as amended, was passed to engrossment.

Senate Bill 474 on Third Reading

Senator Bullock moved that the constitutional rule requiring bills to be read on three several days be suspended and that S. B. No. 474 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—26

Aikin	Lane
Bell	Lack
Bracewell	Martin
Bullock	McDonald
Carney	Moffett
Carter	Nokes
Colson	Parkhouse
Corbin	Phillips
Fuller	Russell
Hardeman	Strauss
Hazlewood	Tynan
Hudson	Vick
Kelly of Tarrant	Wagonseller

Absent

Ashley	Shofner
Kelley of Hidalgo	Weinert

Absent—Excused

Moore

The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Lane
Ashley	Lock
Bell	Martin
Bullock	McDonald
Carney	Moffett
Carter	Nokes
Colson	Parkhouse
Corbin	Phillips
Fuller	Russell
Hardeman	Shofner
Hazlewood	Strauss
Hudson	Tynan
Kelley of Hidalgo	Vick
Kelly of Tarrant	Wagonseller

Absent

Bracewell Weinert

Absent—Excused

Moore

(President in the Chair.)

House Concurrent Resolution 176

On motion of Senator Carney and by unanimous consent, the President laid before the Senate for consideration at this time:

H. C. R. No. 176, Instructing the Enrolling Clerk of the House to amend the caption of House Bill No. 666 to conform to the body of the bill.

The resolution was read second time and was adopted.

Senate Bill 475 on First Reading

Senator Lane moved that Senate Rules 114 and 12 and Section 5 of Article III of the State Constitution be suspended to permit his introducing at this time, a bill, the provisions of which he explained.

The motion prevailed by the following vote:

Yeas—28

Aikin	Colson
Ashley	Corbin
Bell	Fuller
Bracewell	Hardeman
Bullock	Hazlewood
Carney	Hudson
Carter	Kelley of Hidalgo

Kelly of Tarrant	Phillips
Lane	Russell
Lock	Shofner
Martin	Strauss
McDonald	Tynan
Nokes	Vick
Parkhouse	Wagonseller

Absent

Moffett Weinert

Absent—Excused

Moore

The following bill was then introduced, read first time and referred to the committee indicated:

By Senator Lane:

S. B. No. 475, A bill to be entitled "An Act amending Section 8aa, Chapter 28, House Bill No. 19 of Acts Forty-Second Legislature, First Called Session, 1931, so as to prevent discrimination in the purchase of oil in this State not only as between one producer and person as against another in the same field but also as between fields in this State; and declaring an emergency."

To Committee on Oil, Gas and Conservation.

House Bill 147 on Second Reading

Senator Hudson moved to suspend the regular order of business and the constitutional rule requiring bills to be read on three several days and that H. B. No. 147 be placed on its second reading and passage to third reading and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Lane
Ashley	Lock
Bell	Martin
Bracewell	McDonald
Bullock	Moffett
Carney	Nokes
Carter	Parkhouse
Colson	Phillips
Corbin	Russell
Fuller	Shofner
Hazlewood	Strauss
Hudson	Tynan
Kelley of Hidalgo	Vick
Kelly of Tarrant	Wagonseller

Nays—1

Hardeman

Absent

Weinert

Absent—Excused

Moore

The President laid before the Senate on its second reading and passage to third reading the following bill:

H. B. No. 147, A bill to be entitled "An Act making an additional appropriation to the State Dept. of Agriculture supplementing certain funds for the biennium ending Aug. 31, 1951 from the Special Pure Bred Cottonseed Inspection Fund and out of Agricultural Field Seed Fund, etc., and declaring an emergency."

The bill was read second time.

Senator Hudson offered the following amendment to the bill:

Amend House Bill 147 by adding a new section thereto to be known as Section 1a, to read as follows:

"Sec. 1a. In addition to the funds appropriated by Article 1 of House Bill No. 426, Acts of the Fifty-second Legislature, 1951, for the support and maintenance of the Judiciary of the State of Texas, there is hereby appropriated the sum of \$386,000.00, or so much thereof as may be necessary out of any funds in the State Treasury not otherwise appropriated, for each of the fiscal years of the biennium ending August 31, 1953, to pay the additional compensation prescribed by Senate Bill 79, Fifty-second Legislature. The Comptroller of Public Accounts is hereby authorized to draw warrants on the State Treasurer for the payment of the additional compensation provided for in this act in accordance with the provisions, limitations and restrictions contained in Article 1 of said House Bill No. 426."

Senator Bracewell raised the point of order against the amendment on the grounds that it was not germane to the caption of the bill.

The President sustained the point of order.

The bill was passed to third reading.

House Bill 147 on Third Reading

The constitutional rule requiring

bills to be read on three several days having been suspended, the President laid H. B. No. 147 before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—27

Aikin	Kelly of Tarrant
Ashley	Lane
Bell	Lock
Bracewell	Martin
Bullock	McDonald
Carney	Parkhouse
Carter	Phillips
Colson	Russell
Corbin	Shofner
Fuller	Strauss
Hardeman	Tynan
Hazlewood	Vick
Hudson	Wagonseller
Kelley of Hidalgo	

Absent

Moffett	Weinert
Nokes	

Absent—Excused

Moore

Report of Standing Committee

By unanimous consent, Senator Hudson submitted the following report at this time:

Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Oil and Gas, to whom was referred S. B. No. 475, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

HUDSON, Chairman

House Concurrent Resolution 49

On motion of Senator Ashley and by unanimous consent, the President laid before the Senate for consideration at this time the following resolution:

H. C. R. No. 49, Dedicating and granting to the City of Austin certain easement for street and boulevard purposes.

The resolution was read and was adopted.

Record of Votes

Senators Aikin, Hardeman and Martin asked to be recorded as voting "Nay" on the adoption of H. C. R. No. 49.

House Concurrent Resolution 50

On motion of Senator Ashley and by unanimous consent, the President laid before the Senate for consideration at this time the following resolution:

H. C. R. No. 50, Dedicating and granting to the City of Austin certain easement for street and boulevard purposes.

The resolution was read and was adopted.

Record of Votes

Senators Aikin, Hardeman and Martin asked to be recorded as voting "Nay" on the adoption of H. C. R. No. 50.

House Concurrent Resolution 52

On motion of Senator Ashley and by unanimous consent, the President laid before the Senate for consideration at this time the following resolution:

H. C. R. No. 52, Granting to the City of Austin an easement.

The resolution was read and was adopted.

Record of Votes

Senators Aikin, Hardeman and Martin asked to be recorded as voting "Nay" on the adoption of H. C. R. No. 52.

House Bill 815 on Second Reading

Senator Kelley of Hidalgo moved to suspend the regular order of business and the constitutional rule requiring bills to be read on three several days and that H. B. No. 815 be placed on its second reading and passage to third reading and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—25

Aikin	Bracewell
Ashley	Bullock
Bell	Carney

Carter	Moffett
Fuller	Parkhouse
Hardeman	Phillips
Hazlewood	Russell
Hudson	Shofner
Kelley of Hidalgo	Strauss
Kelly of Tarrant	Tynan
Lane	Vick
Martin	Wagonseller
McDonald	

Nays—2

Colson	Lock
--------	------

Absent

Corbin	Weinert
Nokes	

Absent—Excused

Moore

The President laid before the Senate on its second reading and passage to third reading the following bill:

H. B. No. 815, A bill to be entitled "An Act making an emergency appropriation of (\$500.00) five hundred dollars out of any funds in the state treasury not otherwise appropriated to be expended by the Texas State Parks Board for reconditioning and repairing the Frio State Park in Frio County, Texas."

The bill was read second time and was passed to third reading.

House Bill 815 on Third Reading

The constitutional rule requiring bills to be read on three several days having been suspended, the President laid H. B. No. 815 before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—24

Aikin	Kelly of Tarrant
Ashley	Lane
Bell	Martin
Bracewell	McDonald
Bullock	Moffett
Carney	Parkhouse
Carter	Phillips
Fuller	Russell
Hardeman	Strauss
Hazlewood	Tynan
Hudson	Vick
Kelley of Hidalgo	Wagonseller

Nays—2

Colson	Lock
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Absent

Corbin
NokesShofner
Weinert

Absent—Excused

Moore

House Joint Resolution 22
on Second Reading

On motion of Senator Bracewell and by unanimous consent, the President laid H. J. R. No. 22 before the Senate on its second reading and passage to third reading (the resolution having been read the second time on May 17, 1951).

Question—Shall H. J. R. No. 22 be passed to third reading?

Senator Bracewell offered the following amendment to the resolution:

Amend House Joint Resolution No. 22 by changing the period (.) on line 30 of the printed copy to a semicolon (;) and adding the following:

“provided further that the Legislature shall not be authorized to make an appropriation to pay any retirement or disability benefits authorized herein.”

The amendment was adopted.

On motion of Senator Bracewell and by unanimous consent the caption was amended to conform to the body of the resolution, as amended.

The resolution, as amended, was passed to third reading.

House Joint Resolution No. 22
on Third Reading

Senator Bracewell moved that the constitutional rule requiring resolutions to be read on three several days be suspended and that H. J. R. No. 22 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—25

Aikin	Hazlewood
Ashley	Hudson
Bell	Kelley of Hidalgo
Bracewell	Lane
Bullock	Lock
Carney	Martin
Colson	Moffett
Corbin	Nokes
Fuller	Parkhouse
Hardeman	Phillips

Russell
Strauss
TynanVick
Wagonseller

Nays—2

Carter

Kelly of Tarrant

Absent

McDonald
Shofner

Weinert

Absent—Excused

Moore

The President then laid the resolution before the Senate on its third reading and final passage.

The resolution was read third time and was passed by the following vote:

Yeas—25

Aikin	Lane
Ashley	Lock
Bell	Martin
Bracewell	Moffett
Bullock	Nokes
Carney	Parkhouse
Colson	Phillips
Corbin	Russell
Fuller	Strauss
Hardeman	Tynan
Hazlewood	Vick
Hudson	Wagonseller
Kelley of Hidalgo	

Nays—2

Carter

Kelly of Tarrant

Absent

McDonald
Shofner

Weinert

Absent—Excused

Moore

House Bill 822 on Second Reading

Senator Hudson moved to suspend the regular order of business and the constitutional rule requiring bills to be read on three several days and that H. B. No. 822 be placed on its second reading and passage to third reading and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Bullock
Ashley	Carney
Bell	Carter
Bracewell	Colson

Corbin	McDonald
Fuller	Moffett
Hardeman	Nokes
Hazlewood	Parkhouse
Hudson	Phillips
Kelley of Hidalgo	Russell
Kelly of Tarrant	Strauss
Lane	Tynan
Lock	Vick
Martin	Wagonseller

Absent

Shofner Weinert

Absent—Excused

Moore

The President laid before the Senate on its second reading and passage to third reading the following bill:

H. B. No. 822, An Act authorizing incorporated cities and towns which own the portion of an international toll bridge over the Rio Grande River which is situated within the U.S. to issue bonds payable from the net revenues derived from the operation of the bridge for the purpose of repairing or improving the bridge, etc., and declaring an emergency."

The bill was read second time and was passed to third reading.

House Bill 822 on Third Reading

The constitutional rule requiring bills to be read on three several days having been suspended, the President laid H. B. No. 822 before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Kelly of Tarrant
Ashley	Lane
Bell	Lock
Bracewell	Martin
Bullock	McDonald
Carney	Moffett
Carter	Nokes
Colson	Parkhouse
Corbin	Phillips
Fuller	Russell
Hardeman	Strauss
Hazlewood	Tynan
Hudson	Vick
Kelley of Hidalgo	Wagonseller

Absent

Shofner Weinert

Absent—Excused

Moore

House Concurrent Resolution 70

On motion of Senator Parkhouse and by unanimous consent, the President laid before the Senate the following resolution:

H. C. R. No. 70, Relative to adjournment sine die on June 8, 1951, at 12:00 o'clock noon.

The resolution was read and was adopted.

Senate Bill 447 on Second Reading

Senator Aikin asked unanimous consent to suspend the necessary Senate rules and that S. B. No. 447 be laid before the Senate for consideration at this time.

There was no objection offered.

The President laid before the Senate on its second reading and passage to engrossment the following bill:

S. B. No. 447, A bill to be entitled "An Act making an appropriation from the General Revenue Fund for the publication of certain proposed constitutional amendments and for paying labor cost and other expenses necessary thereto; and declaring an emergency."

The bill was read second time and was passed to engrossment.

Senate Bill 447 on Third Reading

Senator Aikin moved that the constitutional rule requiring bills to be read on three several days be suspended and that S. B. No. 447 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Lane
Ashley	Lock
Bell	Martin
Bracewell	McDonald
Bullock	Moffett
Carney	Nokes
Carter	Parkhouse
Colson	Phillips
Corbin	Russell
Fuller	Shofner
Hardeman	Strauss
Hazlewood	Tynan
Hudson	Vick
Kelley of Hidalgo	Wagonseller
Kelly of Tarrant	

Absent

Weinert

Absent—Excused

Moore

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—29

Akiin	Lane
Ashley	Lock
Bell	Martin
Bracewell	McDonald
Bullock	Moffett
Carney	Nokes
Carter	Parkhouse
Colson	Phillips
Corbin	Russell
Fuller	Shofner
Hardeman	Strauss
Hazlewood	Tynan
Hudson	Vick
Kelley of Hidalgo	Wagonseller
Kelly of Tarrant	

Absent

Weinert

Absent—Excused

Moore

House Bill 814 on Second Reading

On motion of Senator Hazlewood and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 814, A bill to be entitled "An Act validating the establishment and creation of all school districts; and declaring an emergency."

The bill was read second time.

Senator Hazlewood offered the following amendment to the bill:

Amend Section 3 of House Bill No. 814 by striking Section 3 thereof and substituting the following:

Sec. 3. This law shall not apply to any district which is now involved in litigation in any district court of this State, the Court of Civil Appeals, or the Supreme Court of Texas, in which litigation the validity of the organization or creation of such district or the consolidation or annexation of territory in or to such district is attacked, or to any district involved in proceedings now pending

before the County Boards of Education, the State Commissioner of Education, or the State Board of Education in which proceedings the validity of the organization or creation of such district or consolidation or annexation of territory in or to such district is attacked. Provided further, that this Act shall not apply to any district which has heretofore been declared invalid by a court of competent jurisdiction of this State or which may have been established and which was later returned to its original status. Provided further, that this Act shall not be construed as authorizing in the future the levy of taxes in excess of the limitations established by the Legislature for school districts by general law, or as validating any tax election or elections or bond election or elections which have heretofore been held to be invalid by any court of competent jurisdiction in this State.

The amendment was adopted.

Senator Hazlewood offered the following caption amendment to the bill:

H. B. No. 814, A bill to be entitled "An Act to validate the establishment, organization, and/or creation of all school districts; validating the acts of county boards of school trustees, county judges, commissioners' courts, boards of trustees of such school districts, and municipal governing bodies; validating tax elections, bond elections, bond assumption elections, and all bonds voted, authorized, and/or now outstanding of said districts; authorizing the levy, assessment, and collection of taxes; providing that this Act shall not apply to certain districts involved now or previously involved in litigation, or to districts involved in certain proceedings now pending before the County Boards of Education, the State Commissioner of Education, or the State Board of Education, or to districts which may have been established and which later returned to original status; providing that this Act shall not be construed as authorizing in the future the levy of taxes in excess of limitations established by the Legislature for school districts by general law, or as validating any tax election or elections or bond election or elections which have heretofore been held to be invalid by any court of competent jurisdiction in this State."

State; providing a savings clause; and declaring an emergency."

The amendment was adopted.

The bill, as amended, was passed to third reading.

House Bill 814 on Third Reading

Senator Hazlewood moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 814 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—25

Ashley	Lock
Bell	Martin
Bracewell	McDonald
Bullock	Moffett
Carney	Nokes
Carter	Parkhouse
Colson	Phillips
Corbin	Russell
Fuller	Shofner
Hazlewood	Strauss
Hudson	Tynan
Kelly of Tarrant	Wagonseller
Lane	

Nays—3

Aikin	Vick
Hardeman	

Absent

Kelley of Hidalgo Weinert

Absent—Excused

Moore

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—23

Ashley	Martin
Bell	McDonald
Bracewell	Moffett
Bullock	Nokes
Carney	Parkhouse
Carter	Phillips
Colson	Russell
Corbin	Shofner
Fuller	Strauss
Hazlewood	Tynan
Kelly of Tarrant	Wagonseller
Lane	

Nays—4

Aikin	Hudson
Hardeman	Vick

Absent

Kelley of Hidalgo Weinert
Lock

Absent—Excused

Moore

House Bill 59 on Second Reading

Senator Martin asked unanimous consent to suspend the regular order of business and that H. B. No. 59 be laid out for consideration at this time.

There was objection.

Senator Martin then moved to suspend the regular order of business and that H. B. No. 59 be laid out for consideration at this time.

The motion prevailed by the following vote:

Yeas—19

Aikin	Lane
Ashley	Lock
Bell	Martin
Bullock	McDonald
Corbin	Moffett
Fuller	Nokes
Hardeman	Shofner
Hudson	Tynan
Kelley of Hidalgo	Vick
Kelly of Tarrant	

Nays—9

Bracewell	Phillips
Carney	Russell
Carter	Strauss
Colson	Wagonseller
Parkhouse	

Absent

Hazlewood Weinert

Absent—Excused

Moore

The President laid before the Senate on its second reading and passage to third reading the following bill:

H. B. No. 59, A bill to be entitled "An Act to apportion the State of Texas into Congressional Districts, naming the counties composing the same, providing for the election of a member of the Congress of the United States from each district, repealing

all laws and parts of laws in conflict herewith, and declaring an emergency."

The bill was read second time.

Senator Martin offered the following committee amendment to the bill:

Amend House Bill No. 59 by striking out all of Section 1 and substituting in lieu thereof the following:

"Sec. 1. The State of Texas shall be apportioned into the following Congressional Districts, each of which shall be entitled to select one member of the Congress of the United States:

First: The following counties shall compose the First District, to-wit: Bowie, Camp, Cass, Delta, Franklin, Harrison, Hopkins, Lamar, Marion, Morris, Red River, Titus.

Second: The following counties shall compose the Second District, to-wit: Chambers, Hardin, Jefferson, Liberty, Orange.

Third: The following counties shall compose the Third District, to-wit: Gregg, Panola, Rusk, Shelby, Smith, Upshur, Van Zandt, Wood.

Fourth: The following counties shall compose the Fourth District, to-wit: Collin, Denton, Fannin, Grayson, Hunt, Kaufman, Rains, Rockwall.

Fifth: The following counties shall compose the Fifth District, to-wit: Dallas.

Sixth: The following counties shall compose the Sixth District, to-wit: Brazos, Ellis, Freestone, Henderson, Hill, Johnson, Leon, Limestone, Navarro, Robertson.

Seventh: The following counties shall compose the Seventh District, to-wit: Anderson, Angelina, Cherokee, Grimes, Houston, Jasper, Madison, Montgomery, Nacogdoches, Newton, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker.

Eighth: The following counties shall compose the Eighth District, to-wit: Harris.

Ninth: The following counties shall compose the Ninth District, to-wit: Austin, Brazoria, Colorado, Fayette, Fort Bend, Galveston, Matagorda, Waller, Wharton.

Tenth: The following counties shall compose the Tenth District, to-wit: Bastrop, Blanco, Burnet, Burleson, Caldwell, Hays, Lee, Travis, Washington, Williamson.

Eleventh: The following counties shall compose the Eleventh District, to-wit: Bell, Bosque, Coryell, Falls, Hamilton, McLennan, Milam.

Twelfth: The following counties shall compose the Twelfth District, to-wit: Tarrant.

Thirteenth: The following counties shall compose the Thirteenth District, to-wit: Archer, Baylor, Clay, Cooke, Foard, Hardeman, Haskell, Jack, King, Knox, Montague, Parker, Stonewall, Throckmorton, Wichita, Wilbarger, Wise, Young.

Fourteenth: The following counties shall compose the Fourteenth District, to-wit: Brooks, Dimmit, Duval, Jim Hogg, Jim Wells, Kleberg, Kennedy, La Salle, Maverick, Nueces, Webb.

Fifteenth: The following counties shall compose the Fifteenth District, to-wit: Brown, Callahan, Coleman, Comanche, Eastland, Erath, Fisher, Hood, Jones, Nolan, Palo Pinto, Runnels, Shackelford, Somervell, Stephens, Taylor.

Sixteenth: The following counties shall compose the Sixteenth District, to-wit: Crane, Culberson, Ector, El Paso, Hudspeth, Jeff Davis, Loving, Midland, Reeves, Upton, Ward, Winkler.

Seventeenth: The following counties shall compose the Seventeenth District, to-wit: Cameron, Hidalgo, Starr, Willacy, Zapata.

Eighteenth: The following counties shall compose the Eighteenth District, to-wit: Armstrong, Briscoe, Carson, Castro, Childress, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler.

Nineteenth: The following counties shall compose the Nineteenth District, to-wit: Andrews, Bailey, Borden, Cochran, Crosby, Dawson, Dickens, Floyd, Gaines, Garza, Hale, Hockley, Howard, Kent, Lamb, Lubbock, Lynn, Martin, Mitchell, Scurry, Terry, Yoakum.

Twentieth: The following counties shall compose the Twentieth District, to-wit: Bexar.

Twenty-first: The following counties shall compose the Twenty-first District, to-wit: Bandera, Brewster, Coke, Concho, Crockett, Edwards, Gillespie, Glasscock, Irion, Kendall, Kerr, Kimble, Kinney, Lampasas, Llano, McCulloch, Mason, Medina, Menard, Mills, Pecos, Presidio, Reagan, Real, San Saba, Schleicher, Sterling, Sutton, Terrell, Tom Green, Uvalde, Val Verde, Zavala.

Twenty-second: The following coun-

ties shall compose the Twenty-second District, to-wit: Aransas, Atascosa, Bee, Calhoun, Comal, De Witt, Frio, Goliad, Gonzales, Guadalupe, Jackson, Karnes, Lavaca, Live Oak, McMullen, Refugio, San Patricio, Victoria, Wilson."

Senator Bracewell offered the following substitute for Committee Amendment No. 1:

Amend H. B. 59 by striking out Section 1 and substituting therefor the following:

Section 1. The State of Texas shall be apportioned into the following Congressional Districts, each of which shall be entitled to elect one member of the Congress of the United States:

First: The following counties shall compose the First District, to-wit: Bowie, Cass, Franklin, Red River, Titus, Morris, Hopkins, Marion, Harrison, Lamar and Delta.

Second: The following counties shall compose the Second District, to-wit: Jefferson, Orange, Angelina, Jasper, Newton, Sabine, San Augustine, Tyler, Hardin, Liberty and Shelby.

Third: The following counties shall compose the Third District, to-wit: Van Zandt, Smith, Rusk, Panola, Wood, Camp, Upshur and Gregg.

Fourth: The following counties shall compose the Fourth District, to-wit: Grayson, Fannin, Collin, Hunt, Rockwall, Kaufman and Rains.

Fifth: The following counties shall compose the Fifth District, to-wit: Dallas.

Sixth: The following counties shall compose the Sixth District, to-wit: Navarro, Limestone, Ellis, Robertson, Freestone, Leon, Hill and Brazos.

Seventh: The following counties shall compose the Seventh District, to-wit: Houston, Montgomery, San Jacinto, Polk, Henderson, Anderson, Trinity, Walker, Grimes, Madison, Cherokee and Nacogdoches.

Eighth: The following counties shall compose the Eighth District, to-wit: Harris, which District shall be entitled to elect two (2) members to the House of Representatives of the Congress of the United States to be known as Position Number One and Position Number Two.

Ninth: The following counties shall compose the Ninth District, to-wit: Colorado, Matagorda, Goliad, Brazoria, Fort Bend, Wharton, Jackson, Victoria, Austin, Waller, Calhoun, Galveston, Lavaca, Fayette and Chambers.

Tenth: The following counties shall compose the Tenth District, to-wit: Washington, Hays, Caldwell, Bastrop, Travis, Williamson, Lee, Burleson, Burnet and Blanco.

Eleventh: The following counties shall compose the Eleventh District, to-wit: Falls, Bosque, Bell, Coryell, McLennan and Milam.

Twelfth: The following counties shall compose the Twelfth District, to-wit: Tarrant, Johnson, Parker, Hood and Somervell.

Thirteenth: The following counties shall compose the Thirteenth District, to-wit: Wilbarger, Baylor, Throckmorton, Archer, Clay, Jack, Montague, Wise, Wichita, Cooke, Denton, Young, Hardeman, Foard and Knox.

Fourteenth: The following counties shall compose the Fourteenth District, to-wit: Kleberg, Nueces, Jim Wells, Duval, Kenedy, San Patricio, McMullen, Live Oak, Bee, Aransas, Refugio, De Witt, Karnes, Atascosa, Wilson, Guadalupe, Comal, Brooks and Gonzales.

Fifteenth: The following counties shall compose the Fifteenth District, to-wit: Cameron, Hidalgo, Willacy, Starr, Zapata, Webb, Jim Hogg, Dimmit, Medina, Zavala, Frio, La Salle and Maverick.

Sixteenth: The following counties shall compose the Sixteenth District, to-wit: El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Midland, Glasscock, Ward, Crane, Upton, Reagan, Jeff Davis, Presidio, Brewster, Pecos, Terrell and Crockett.

Seventeenth: The following counties shall compose the Seventeenth District, to-wit: Nolan, Fisher, Jones, Taylor, Shackelford, Callahan, Stephens, Eastland, Comanche, Erath, Palo Pinto and Hamilton.

Eighteenth: The following counties shall compose the Eighteenth District, to-wit: Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Farmer, Castro, Swisher, Briscoe, Hall, Childress, Motley and Cottle.

Nineteenth: The following counties shall compose the Nineteenth District, to-wit: Bailey, Lamb, Hale, Cochran, Hockley, Floyd, Lubbock, Crosby, Dickens, King, Yoakum, Terry, Lynn, Garza, Kent, Stonewall, Haskell, Gaines, Dawson, Borden, Scurry, Mitchell, Andrews, Martin and Howard.

Twentieth: The following counties shall compose the Twentieth District, to-wit: Bexar.

Twenty-first: The following counties shall compose the Twenty-first District, to-wit: Sterling, Coke, Runnels, Coleman, Irion, Tom Green, Concho, San Saba, McCulloch, Mills, Lampasas, Schleicher, Menard, Mason, Llano, Kimble, Gillespie, Real, Kerr, Kendall, Bandera, Sutton, Edwards, Kinney, Uvalde, Brown, and Val Verde.

Pending discussion of the substitute by Senator Bracewell, Senator Hudson moved the previous question on H. B. No. 59 and the pending amendments and the motion was duly seconded.

The motion for the previous question was lost by the following vote:

Yeas—12

Bell	Kelley of Hidalgo
Bullock	Lane
Corbin	Martin
Fuller	McDonald
Hardeman	Moffett
Hudson	Vick

Nays—16

Aikin	Lock
Ashley	Parkhouse
Bracewell	Phillips
Carney	Russell
Carter	Shofner
Colson	Strauss
Hazlewood	Tynan
Kelly of Tarrant	Wagonseller

Absent

Nokes	Weinert
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Absent—Excused

Moore

Question—Shall the substitute by Senator Bracewell for the committee amendment be adopted?

Recess

Senator Phillips moved the Senate stand adjourned until 9:00 o'clock a. m. tomorrow.

Senator Aikin moved the Senate stand recessed until 8:00 o'clock p. m. today.

Senator Moffett moved the Senate stand recessed until 9:00 o'clock a. m. tomorrow.

Question first recurring on the motion of Senator Phillips, it was lost by the following vote:

Yeas—10

Ashley	Hazlewood
Bracewell	Lane
Carney	Phillips
Colson	Russell
Hardeman	Wagonseller

Nays—19

Aikin	Martin
Bell	McDonald
Bullock	Moffett
Carter	Nokes
Corbin	Parkhouse
Fuller	Shofner
Hudson	Strauss
Kelley of Hidalgo	Tynan
Kelly of Tarrant	Vick
Lock	

Absent

Weinert

Absent—Excused

Moore

Question next recurring on the motion of Senator Moffett, it was lost by the following vote:

Yeas—9

Ashley	Moffett
Bracewell	Phillips
Carney	Russell
Hardeman	Wagonseller
Lane	

Nays—20

Aikin	Kelly of Tarrant
Bell	Lock
Bullock	Martin
Carter	McDonald
Colson	Nokes
Corbin	Parkhouse
Fuller	Shofner
Hazlewood	Strauss
Hudson	Tynan
Kelley of Hidalgo	Vick

Absent

Weinert

Absent—Excused

Moore

Question next recurring on the motion of Senator Aikin, the motion prevailed.

Accordingly, the Senate at 6:45 o'clock p. m. took recess until 8:00 o'clock p. m. today.

After Recess

The President called the Senate to order at 8:00 o'clock p. m. today.

House Concurrent Resolution 161

On motion of Senator Aikin, and by unanimous consent, the President laid before the Senate for consideration at this time the following resolution:

H. C. R. No. 161, Authorizing the Board of Regents of the Texas State Teachers Colleges to accept title to the above described tracts of land for the use and benefit of the East Texas State Teachers College.

The resolution was read and was adopted.

Bills and Resolutions Signed

The President signed in the presence of the Senate, after the captions had been read, the following enrolled bills and resolutions:

S. B. No. 435, A bill to be entitled "An Act directing the State Treasurer to designate special depository banks for receiving and keeping certain receipts of institutions of higher education of this State; etc.; and declaring an emergency."

S. B. No. 326, A bill to be entitled "An Act providing for the creation, government, operation and maintenance of fire protection districts for the conservation of natural resources and properties within the State of Texas, outside of incorporated cities, towns and villages, and declaring an emergency."

S. B. No. 178, A bill to be entitled "An Act making it unlawful to negligently set on fire, or cause to be set on fire any woods, forest, cutover, brush, range, or grassland belonging to another, or to set on fire any woods, forest, cutover, brush, range, or grassland belonging to himself and allowing such fire to spread to the property of another; prescribing a penalty necessary and incident thereto; repealing all laws in conflict herewith, and declaring an emergency."

S. B. No. 171, A bill to be entitled "An Act providing for statement of facts in a criminal proceeding; providing the form of such statement; providing how such statement shall be prepared; providing when and where such statement shall be filed; provid-

ing in certain instances statement of facts may constitute bill of exception; repealing conflicting laws; containing a savings clause and declaring an emergency."

S. B. No. 168, A bill to be entitled "An Act amending Article 755, Code of Criminal Procedure of Texas, 1925, providing the time within which motion for new trial may be filed, may be amended and may be disposed of; containing a savings clause, and declaring an emergency."

S. B. No. 167, A bill to be entitled "An Act providing that in a criminal case where a written motion is filed and overruled, the motion, any reply thereto, the court's order thereon, the exception to such ruling, any evidence thereon, if any evidence was adduced, shall constitute a bill of exception on appeal and no formal bill of exception need be prepared; providing for statement of fact on any such motion; containing a savings clause; repealing conflicting laws, and declaring an emergency."

S. B. No. 165, A bill to be entitled "An Act providing the time for filing bills of exception in a criminal case, and declaring an emergency."

S. B. No. 160, A bill to be entitled "An Act amending Article 333, Revised Code of Criminal Procedure of Texas, 1925, as amended by the Acts of the Fiftieth Legislature, Chapter 83, Section 2, page 141 providing for the appointment of jury commissioners, and declaring an emergency."

S. B. No. 159, A bill to be entitled "An Act amending Article 338, Code of Criminal Procedure of Texas, 1925, providing for the selection of grand jurors, and declaring an emergency."

S. B. No. 155, A bill to be entitled "An Act to amend Article 348, Code of Criminal Procedure of Texas, 1925, as amended by the Acts of the 43rd Legislature of Texas, Chapter 27, page 56, and declaring an emergency."

S. B. No. 154, A bill to be entitled "An Act prohibiting the use in evidence against a defendant in a criminal case or a witness for the purpose of impeachment as a witness of any complaint, information, or indictment unless a conviction for the offense charged has resulted; repealing all conflicting laws, and declaring an emergency."

S. B. No. 153, A bill to be entitled "An Act amending Chapter 507, Section 2, page 819, Acts of the 47th Legislature of Texas, 1941, providing that a person who is convicted of driving a motor vehicle upon a public road or highway in this state or upon any street, or alley in any incorporated city, town, or village while under the influence of intoxicating liquor and who thereafter drives a motor vehicle upon such road, highway, street or alley while so intoxicated shall be guilty of a felony; fixing a penalty, and declaring an emergency."

S. B. No. 116, A bill to be entitled "An Act relating to the salaries of all State Officers except the salaries and other compensation of District Judges and except those Constitutional State Officers whose salaries are specifically fixed by the Constitution; specifically providing that the Legislature shall fix the amount of compensation to be paid clerks of the Courts of Civil Appeals, the Supreme Court, and the Court of Criminal Appeals out of the fees of office; and specifically suspending all laws and parts of laws in conflict herewith; and declaring an emergency."

H. C. R. No. 146, Granting the Southwestern Bell Telephone Company permission to bring suit against the State of Texas.

H. B. No. 314, A bill to be entitled "An Act amending Section 27 (b) of House Bill 34, Chapter 325, Acts of the Fiftieth Legislature, Regular Session, 1947, relating to petitions for elections to remove cities from the provisions of the Firemen's and Policemen's Civil Service Law; providing that an election may be held in any city in which the provisions of the Firemen's and Policemen's Civil Service Law have been in effect for a period of two (2) years; and declaring an emergency."

H. B. No. 510, A bill to be entitled "An Act relating to demands for the rendition of persons charged with crime; providing the procedure therefor and the requirements thereof; providing the number of copies of indictments and affidavits and warrants issued thereon that shall be furnished; providing all papers submitted shall be in duplicate; providing the requirements of the indictment or affidavit; etc.; and declaring an emergency."

H. B. No. 650, A bill to be entitled

"An Act to amend Section 5 of House Bill 168, Chapter 352, Acts of the Fiftieth Legislature, 1947, as amended, by adding a new subsection to be known as I; providing that a retired member of the State Employees Retirement System shall be ineligible to be employed as a State employee, except that retired members who retired prior to January 1, 1951, may teach during the present national emergency and world conflict and twelve (12) months thereafter; etc.; and declaring an emergency."

H. B. No. 661, A bill to be entitled "An Act to amend Article 6626 of the Revised Statutes of Texas, 1925, as amended by Chapter 217, Acts of the Regular Session of the Forty-second Legislature in 1931, relative to the filing and recording of instruments of writing, maps and plats, so as to provide the prerequisites for filing, recording and approving maps and plates subdividing or re-subdividing real estate; and declaring an emergency."

H. B. No. 698, A bill to be entitled "An Act amending Section 2 and Section 3 of House Bill No. 837, Chapter 621, Acts of the Fifty-first Legislature, Regular Session, 1949, so as to provide for the preservation and disposition of oaths, affidavits or affirmations filed; and declaring an emergency."

H. B. No. 770, A bill to be entitled "An Act amending Section 1 of Senate Bill 480, Chapter 60, Acts of the Forty-sixth Legislature, Regular Session, 1939, so as to make it unlawful to transport more than two thousand minnows from Walker County, or to have in any vehicle more than two thousand minnows in Walker County; and declaring an emergency."

H. B. No. 781, A bill to be entitled "An Act authorizing Commissioners' Courts to increase compensation for justices of the peace in certain counties, etc.; and declaring an emergency."

H. B. No. 788, A bill to be entitled "An Act regulating the use of seines and nets for the taking of fish in Fayette County, etc.; and declaring an emergency."

H. B. No. 793, A bill to be entitled "An Act providing a closed season on wild deer and pheasants in Fay-

ette County for a period of five years, etc.; and declaring an emergency."

H. B. No. 812, A bill to be entitled "An Act amending House Bill 566, Acts 1951, Fifty-second Legislature, Section 5, and declaring an emergency."

S. C. R. No. 79, Suspending the Joint Rules to consider S. B. No. 474 at any time.

Bill Ordered Not Printed

On motion of Senator Lane, and by unanimous consent, it was ordered that S. B. No. 475 be not printed.

Senate Bill 475 on Second Reading

Senator Lane moved to suspend the regular order of business and the constitutional rule requiring bills to be read on three several days and that S. B. No. 475 be placed on its second reading and passage to engrossment and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—25

Aikin	Lane
Bell	Lock
Bracewell	Martin
Bullock	McDonald
Carter	Moffett
Colson	Parkhouse
Corbin	Phillips
Fuller	Russell
Hardeman	Shofner
Hazlewood	Strauss
Hudson	Vick
Kelley of Hidalgo	Wagonseller
Kelly of Tarrant	

Absent

Ashley	Tynan
Carney	Weinert
Nokes	

Absent—Excused

Moore

The President laid before the Senate on its second reading and passage to engrossment the following bill:

S. B. No. 475, A bill to be entitled "An Act amending Section 8aa, Chapter 28, House Bill No. 19 of Acts Forty-second Legislature, First Called Session, 1931, so as to prevent discrimination in the purchase of oil in this State not only as between one

producer and person as against another in the same field but also as between fields in this State; and declaring an emergency."

The bill was read second time and passed to engrossment.

Senate Bill 475 on Third Reading

The constitutional rule requiring bills to be read on three several days having been suspended, the President laid S. B. No. 475 before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—25

Aikin	Lane
Bell	Lock
Bracewell	Martin
Bullock	McDonald
Carter	Moffett
Colson	Parkhouse
Corbin	Phillips
Fuller	Russell
Hardeman	Shofner
Hazlewood	Strauss
Hudson	Vick
Kelley of Hidalgo	Wagonseller
Kelly of Tarrant	

Absent

Ashley	Tynan
Carney	Weinert
Nokes	

Absent—Excused

Moore

House Concurrent Resolution 174

On motion of Senator Carter, and by unanimount consent, the President laid before the Senate for consideration at this time the following resolution:

H. C. R. No. 174, Suspending the Joint Rules of the House and Senate so that the House may take up and consider H. B. No. 559 at any time.

The resolution was read and was adopted.

Message From the House

Hall of the House of Representatives,
Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to

inform the Senate that the House has passed the following:

H. B. No. 826, A bill to be entitled "An Act to amend Senate Bill No. 175, being Chapter 15 of the Acts of the Forty-sixth Legislature, Regular Session, effective March 25, 1939, as amended by House Bill No. 502, being Chapter 561 of the Acts of the Forty-seventh Legislature, Regular Session, effective July 2, 1941, as amended by Acts of 1945, Forty-ninth Legislature, page 406, Chapter 261, as amended by House Bill No. 735, being Chapter 350, page 692, of the Acts of the Fiftieth Legislature, Regular Session, as amended by House Bill No. 798, being Chapter 393, page 730 of the Acts of the Fifty-first Legislature, Regular Session, authorizing independent school districts of common school districts and cities which have assumed the control of public schools situated therein to build or purchase buildings and grounds located within or without the district or city, for the purpose of constructing gymnasias, stadia, or other recreational facilities, to build additions thereto, and to authorize the purchase of additional buildings and grounds for such purposes and to mortgage and encumber the same, and the income thereof, and to evidence the obligation therefor by the issuance of bonds to secure the payment of funds to purchase or construct or to purchase and construct the same; providing that the purchaser shall have a franchise to operate the same in case of foreclosure; providing that no such obligation shall ever be a debt of any such school district or city, but solely a charge upon the property so encumbered; providing that no election for the issuance of such bonds shall be necessary; providing that such project shall be deemed self-liquidating in character; providing that such bonds may be authorized by a majority vote of the boards of trustees of such school districts or the governing bodies of any such cities; providing that the cost of maintaining and operating the project shall be a first charge against the revenues of the project; providing that such bonds shall be payable from the net revenues of the project, together with all future extensions or additions thereto, or replacements thereof; providing for the payment of said bonds; providing that the holder of said bonds shall never have the right to demand payment thereof out

of any funds raised or to be raised by taxation; providing that said bonds shall be approved by the Attorney General and registered by the State Comptroller; providing that no bonds authorized shall be issued or executed after the expiration of two (2) years from the effective date of this Act; providing that no land upon which is situated school improvements shall be subject to the indebtedness created hereunder; validating Acts heretofore performed by school districts; enacting provisions incident and relating to the subject and purpose of this Act; and declaring an emergency."

H. B. No. 828, A bill to be entitled "An Act making an appropriation of the sum of Fifty Thousand Dollars (\$50,000), or so much thereof as may be necessary, out of any funds in the State Treasury not otherwise appropriated, to pay the contingent expenses, and to pay the mileage and per diem of the members and the per diem of officers and employees of the Fifty-second Legislature and to pay any unpaid accounts or expenses of the Fifty-first Legislature; and declaring an emergency."

Respectfully submitted,
CLARENCE JONES,
Chief Clerk, House of Representatives.

House Bills on First Reading

The following bills, received from the House, were read first time and were referred to the committees indicated:

H. B. No. 826—To Committee on Educational Affairs.

H. B. No. 828—To Committee on Finance.

House Bill 584 on Second Reading

On motion of Senator Lane, and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 584, A bill to be entitled "An Act regulating the taking and killing of deer in Panola, Sabine, San Augustine, Jasper and Shelby Counties; providing open and closed seasons; providing penalties for violation of this Act; and declaring an emergency."

The bill was read second time and passed to third reading.

House Bill 584 on Third Reading

Senator Lane moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 584 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—27

Aikin	Kelly of Tarrant
Ashley	Lane
Bell	Lock
Bracewell	Martin
Bullock	McDonald
Carney	Moffett
Carter	Parkhouse
Colson	Phillips
Corbin	Russell
Fuller	Shofner
Hardeman	Strauss
Hazlewood	Vick
Hudson	Wagonseller
Kelley of Hidalgo	

Absent

Nokes	Weinert
Tynan	

Absent—Excused

Moore

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Report of Standing Committee

By unanimous consent, Senator Aikin submitted the following report at this time:

Austin, Texas,
June 6, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Education, to whom was referred H. B. No. 826, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

AIKIN, Chairman

Senate Resolution 306

Senator Wagonseller offered the following resolution:

Whereas, We are honored today to have in the gallery Mr. and Mrs. Bas

Gist of Nocona, Texas; and

Whereas, These two are very outstanding citizens of North Texas; therefore, be it

Resolved, That these individuals be officially welcomed and recognized by the Senate, and that they be extended the courtesies of the floor for the day.

The resolution was read and was adopted.

Reports of Standing Committees

By unanimous consent the following committee reports were submitted at this time:

Senator Carney submitted the following reports:

Austin, Texas,
June 5, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred H. B. No. 803, have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

CARNEY, Chairman

Austin, Texas,
June 7, 1951.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred H. B. No. 828, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

CARNEY, Chairman

House Bill 59 on Second Reading

The Senate resumed consideration of pending business, same being H. B. No. 59 on its second reading and passage to third reading, with a committee amendment and a substitute for the committee amendment pending.

Question—Shall the substitute by Senator Bracewell for the committee amendment be adopted?

After discussion of the amendment by Senator Bracewell, Senator Hudson moved the previous question on the pending amendment and on the bill, and the motion was duly seconded.

The motion was lost by the following vote:

Yeas—9

Bell	Lane
Bullock	Martin
Hardeman	McDonald
Hudson	Moffett
Kelley of Hidalgo	

Nays—13

Aikin	Lock
Bracewell	Phillips
Carter	Russell
Colson	Shofner
Corbin	Strauss
Fuller	Wagonseller
Kelly of Tarrant	

Present—Not Voting

Parkhouse

Absent

Ashley	Tynan
Carney	Vick
Hazlewood	Weinert
Nokes	

Absent—Excused

Moore

(Senator Hudson in Chair.)

After further discussion of the amendment by Senator Bracewell, Senator Martin moved the previous question on the pending amendments and on the bill, and the motion was duly seconded.

The motion was lost by the following vote:

Yeas—12

Bell	Lock
Bullock	Martin
Hardeman	McDonald
Hudson	Moffett
Kelley of Hidalgo	Tynan
Lane	Vick

Nays—14

Aikin	Hazlewood
Bracewell	Kelly of Tarrant
Carney	Phillips
Carter	Russell
Colson	Shofner
Corbin	Strauss
Fuller	Wagonseller

Absent

Ashley	Parkhouse
Nokes	Weinert

Absent—Excused

Moore

(President in Chair)

After further discussion of the amendment by Senator Bracewell, Senator Martin moved the previous question on the pending amendments and on the bill and the motion was duly seconded.

The motion prevailed by the following vote:

Yeas—17

Aikin	Lock
Bell	Martin
Bullock	McDonald
Corbin	Moffett
Fuller	Moore
Hardeman	Shofner
Hudson	Strauss
Kelley of Hidalgo	Vick
Lane	

Nays—10

Ashley	Hazlewood
Bracewell	Kelly of Tarrant
Carney	Phillips
Carter	Russell
Colson	Wagonseller

Absent

Nokes	Tynan
Parkhouse	Weinert

(Senator Moffett in Chair)

(June 7, 1951)

Pending discussion of the substitute for the committee amendment by Senator Bracewell, Senator Parkhouse raised the point of order that there was not a quorum of the Senate present.

The Presiding Officer directed the Secretary to call the roll and the following Senators were present:

Present—22

Aikin	Kelley of Hidalgo
Ashley	Kelly of Tarrant
Bell	Martin
Bracewell	McDonald
Carter	Moffett
Colson	Moore
Corbin	Parkhouse
Fuller	Russell
Hardeman	Shofner
Hazlewood	Strauss
Hudson	Wagonseller

Absent

Bullock	Lock
Carney	Nokes
Lane	Phillips